

**RULES
OF
THE TENNESSEE STATE BOARD OF MEDICAL EXAMINERS**

**CHAPTER 0880-2
GENERAL RULES AND REGULATIONS GOVERNING THE PRACTICE OF MEDICINE**

TABLE OF CONTENTS

0880-2-.01	Definitions	0880-2-.11	Officers, Records, Meeting Requests, Certificates of Fitness, Advisory Rulings Declaratory Orders and Screening Panels
0880-2-.02	Fees	0880-2-.12	Licensure Discipline and Civil Penalties
0880-2-.03	Licensure Process-U.S. and Canada Medical School Graduates	0880-2-.13	Advertising
0880-2-.04	Licensure Process-International Medical School Graduates	0880-2-.14	Specifically Regulated Areas and Aspects of Medical Practice
0880-2-.05	Licensure of Out-Of-State and International Applicants	0880-2-.15	Medical Records
0880-2-.06	Training Licenses and Licensure Exemptions	0880-2-.16	Telemedicine Licensure
0880-2-.07	Application Review, Approval, Denial, Interviews and Conditioned, Restricted and Locum Tenens Licensure	0880-2-.17	Consumer Right-To-Know Requirements
0880-2-.08	Examination	0880-2-.18	Supervision of Physician Assistants
0880-2-.09	Licensure Renewal and Reinstatement	0880-2-.19	Continuing Medical Education
0880-2-.10	Inactive Licenses, Licensure, Retirement and Reactivation	0880-2-.20	Medical Professional Corporations and Medical Professional Limited Liability Companies

0880-2-.01 DEFINITIONS. As used in this Chapter of Rules the following terms and acronyms shall have the following meanings ascribed to them:

- (1) Board - The Tennessee Board of Medical Examiners.
- (2) Board's Administrative Office - The office of the administrator assigned to the Tennessee Board of Medical Examiners located at 1st Floor Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37247-1010.
- (3) Board Designee - Any person who has received written delegation of authority from the Board to perform Board functions subject to review and ratification by the full Board where provided by these rules.
- (4) Derogatory Information - As this term is used in T.C.A. § 63-6-210, shall mean wherever it appears in these rules any communication or information received during the licensure, renewal or reinstatement process which indicates either legal, ethical, competency, mental or physical problems which reflect in any manner not inconsistent with the Americans With Disabilities Act on the individuals fitness or competency to safely practice or continuing to safely practice medicine in Tennessee without restriction. Such communications or information include but are not limited to, conviction of a crime, malpractice lawsuits, loss or restriction of hospital privileges, licensure discipline in another state or country, previous licensure action either formal or informal in this state, ongoing investigation or prosecution of a disciplinary action in this or any other state or country and any physical/medical condition which is not otherwise ameliorated by compliance with physician orders, treatment program requirements or voluntary restrictions of the individual in compliance with the Americans With Disabilities Act.
- (5) Division - The Tennessee Department of Health, Division of Health Related Boards, from which the Board receives administrative support.
- (6) E.C.F.M.G. - The Educational Committee for Foreign Medical Graduates or its successor organization.
- (7) FCVS - The Federation Credentials Verification Service which is a service offered by the Federation of State Medical Boards that provides primary source identification and verification of physician core credentials as required in licensure applications by the states.

(Rule 0880-2-.01, continued)

- (8) FLEX - The Federation Licensing Examination I -II.
- (9) Formulary - A list of legend and non-legend drugs arranged by therapeutic categories, included in the protocols, that are approved to be prescribed and/or issued by a physician assistant, which may include controlled substances listed in Schedules II, III, IV and V of the Tennessee Code Annotated, Title 39, Chapter 17, Part 4.
- (10) Licensee - Any person who has been lawfully issued a license to practice medicine in Tennessee by the Board.
- (11) N.B.M.E. - The National Board of Medical Examiners examination.
- (12) Physician Assistant - A person who is licensed to practice as a physician assistant in Tennessee pursuant to T.C.A. § 63-19-105
- (13) Protocols - Written guidelines for medical management developed jointly by the supervising physician and the physician assistant.
- (14) Supervising Physician - A licensed and actively practicing physician who has been identified as accepting responsibility for supervising a physician assistant.
- (15) U.S.M.L.E. - The United States Medical Licensing Examination.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-19-104, and Public Chapter 33, Public Acts of 1999.
Administrative History: Original rule filed October 13, 1983; effective November 14, 1983. Subsequently repealed and replaced twice, the last replacement was effective April 12, 1991. Amendment filed April 14, 1994; effective June 28, 1994. Amendment filed February 23, 1995; effective May 9, 1995. Amendment filed September 22, 1997; effective December 6, 1997. Amendment filed February 3, 1998; effective April 19, 1998. Amendment filed April 10, 2000; effective June 24, 2000. Amendment filed September 5, 2002; effective November 19, 2002.

0880-2-.02 FEES.

- (1) The fees authorized by the Tennessee Medical Practice Act (T.C.A. §§63-6-101 through 63-6-104 and T.C.A. §§63-6-201 through 63-6-227) and other applicable statutes to be established by the Board are established as follows:
 - (a) Application Fee - a non refundable fee to be paid by\$400.00
all licensure applicants regardless of the type of
license applied for. It must be paid each time an
application for licensure is filed.
 - (b) Examination Fee - This fee is to be paid each time the\$100.00
USMLE Step 3 examination is taken.
 - (c) Out-of-State and International Application Processing\$280.00
Fee- This fee is nonrefundable.
 - (d) Special Training License Fee\$ 25.00
 - (e) Licensure Exemption Fee - Visiting Faculty Member.\$ 50.00
This fee is paid annually for each year of exemption.

(Rule 0880-2-.02, continued)

- (f) Licensure Renewal Fee - To be paid biennially by all licensees. This fee also applies to licensees who reactivate a retired license or who reactivate an inactive license.\$225.00
 - (g) Annual State Regulatory Fee - To be paid by all licensees upon application and biennially upon renewal. (\$10.00 biennially)\$ 5.00
 - (h) Late Licensure Renewal Fee - To be paid when a licensee fails to timely renew licensure.\$200.00
 - (i) Duplicate License Fee.\$ 25.00
 - (j) Licensure Inactivation Fee - To be paid at the time a licensee applies for an inactive license.\$ 50.00
 - (k) Licensure Exemption Fee - Interns, Residents or Clinical Fellows. This fee is paid annually for each year of exemption.\$ 10.00
- (2) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Tennessee Board of Medical Examiners.

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-106, 63-6-101, 63-1-106, 63-6-201, 63-6-207, 63-6-210, and 63-6-211. **Administrative History:** Original rule filed October 13, 1983; effective November 14, 1983. Subsequently repealed and replaced twice, the last replacement was effective April 12, 1994. Amendment filed April 14, 1994; effective June 28, 1994. Amendment filed February 23, 1995; effective May 9, 1995. Amendment filed May 2, 1995; effective July 16, 1995. Amendment filed June 12, 1995; effective August 26, 1995. Amendment filed July 12, 1995; effective November 28, 1995. Public Necessity Rule filed and effective November 28, 1995. Amendment filed March 25, 1996; effective June 8, 1996, Expired by GOC, August 1996. Amendment filed September 4, 1998; effective November 11, 1998. Amendment filed August 25, 2000; effective November 8, 2000. Amendment filed August 16, 2002; effective October 30, 2002. Amendment filed September 5, 2002; effective November 19, 2002.

0880-2-.03 LICENSURE PROCESS-U.S. AND CANADA MEDICAL SCHOOL GRADUATES. To practice medicine in Tennessee a person must possess a lawfully issued license from the board. The procedure for obtaining a license is as follows:

- (1) An applicant shall obtain an application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and fees required by the form and this rule to the Board Administrative Office. It is the intent of this rule that all activities necessary to accomplish the filing of the required documentation be completed prior to filing a licensure application and that all documentation be filed simultaneously.
- (2) It is the applicant's responsibility to request a graduate transcript from a medical school approved by the American Medical Association or its extant accreditation program for medical education or its successor be submitted directly from the school to the Board Administrative Office. The transcript must show that the degree has been conferred and carry the official seal of the institution.

(Rule 0880-2-.03, continued)

- (3) An applicant shall submit evidence satisfactory to the Board of successful completion of a one (1) year United States training program approved by the American Medical Association or its extant accreditation program for medical education or its successor. Such evidence shall include but not be dispositive of this requirement, a notarized certificate of completion and a letter attesting to satisfactory completion issued by the director of the program which shall indicate that the training was completed entirely after receipt of a medical degree in one continuous program in any one of the recognized medical specialty areas.
- (4) An applicant shall submit a clear and recognizable, recently taken, bust photograph which shows the full head, face forward from at least the top of the shoulders up.
- (5) An applicant shall submit evidence of good moral character. Such evidence shall include at least two (2) letters attesting to the applicant's character from medical professionals on the signator's letterhead.
- (6) An applicant shall submit proof of United States or Canada citizenship or evidence of being legally entitled to live and work in the United States. Such evidence may include notarized copies of birth certificates, naturalization papers or current visa status.
- (7) An applicant shall submit the application fee and state regulatory fee as provided in rule 0880-2-.02(1) (a) and (g).
- (8) All applicants shall submit or cause to be submitted a certificate of successful completion of the examination for licensure as governed by rule 0880-2-.08.
- (9) All applicants shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
 - (b) The denial of licensure application by any other state or the discipline of licensure in any state.
 - (c) Loss or restriction of hospital privileges.
 - (d) Any other civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving medical malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under any country's or state's statutory, common, or case law.
 - (e) Failure of any medical licensure examination.
- (10) An applicant who has completed all but three (3) or less months of the one (1) year training program required by paragraph (3) of this rule may apply for licensure if all other requirements of this rule are met and the director of the training program submits a letter attesting to the applicant's satisfactory performance in and anticipated successful completion of the training program. However, no license shall be approved or issued until the requirements of paragraph (3) of this rule are met.
- (11) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).
- (12) Inactive Volunteer Licensure - Applicants who intend to exclusively practice medicine without compensation on patients who receive medical services from organizations granted a determination of

(Rule 0880-2-.03, continued)

exemption pursuant to Section 501 (c)(3) of the Internal Revenue Code may obtain an inactive volunteer license to do so as follows:

- (a) Applicants who currently hold a valid Tennessee license to practice medicine issued by the Board pursuant to this rule which is in good standing must;
 - 1. Retire their active licenses pursuant to the provisions of rule 0880-2-.10 (2); and
 - 2. Have submitted to the Board Administrative Office directly from the qualified organization proof of the determination of exemption issued pursuant to Section 501 (c)(3) of the Internal Revenue Code; and
 - 3. Certify that they are practicing medicine exclusively on the patients of the qualified entity and that such practice is without compensation.
- (b) Applicants who do not currently hold a valid Tennessee license to practice medicine must comply with all provisions of paragraphs (1) through (11) of this rule.
- (c) Inactive volunteer licenses are subject to all rules governing renewal, retirement, reinstatement and reactivation as provided by rules 0880-2-.09 and .10. These licenses are also subject to disciplinary action for the same causes and pursuant to the same procedures as active licenses.
- (d) Inactive volunteer licenses are distinguished from the inactive licenses referred to in rule 0880-2-.10 only by the fact that licenses issued pursuant to this rule allow the practice of medicine in Tennessee with the restrictions placed on it by this rule.

(13) Application review and licensure decisions shall be governed by rule 0880-2-.07.

Authority: T.C.A. §§4-5-202, 63-6-101 (a), 63-6-201, 63-6-207 (a) (1) and (c), 63-6-208, 63-6-209 and 63-6-230.
Administrative History: Original rule filed October 13, 1983; effective November 14, 1983. Subsequently repealed and replaced twice, the last replacement was effective April 12, 1991. Amendment filed November 27, 1991; effective February 26, 1992. Amendment filed December 29, 1992; effective February 15, 1993. Amendment filed February 23, 1995; effective May 9, 1995. Amendment filed February 3, 1998; effective April 19, 1998.

0880-2-.04 LICENSURE PROCESS-INTERNATIONAL MEDICAL SCHOOL GRADUATES. To practice medicine in Tennessee a person must possess a lawfully issued license from the board. The procedure for obtaining a license is as follows:

- (1) An applicant shall obtain an application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and fees required by the form and this rule to the Board Administrative Office. It is the intent of this rule that all activities necessary to accomplish the filing of the required documentation be completed prior to filing a licensure application and that all documentation be filed simultaneously.
- (2) It is the applicant's responsibility to request a graduate transcript from a medical school approved by the American Medical Association or its extant accreditation program for medical education or its successor be submitted directly from the school to the Board Administrative Office. The transcript must show that the degree has been conferred and carry the official seal of the institution.
- (3) To be a Board approved international medical school for purposes of this rule the school shall meet the following curriculum criteria:

(Rule 0880-2-.04, continued)

- (a) All courses must have been completed by personal attendance. No international medical school accepting or providing credits for courses taken by correspondence shall be approved.
 - (b) Course instruction must consist of the equivalent of at least four (4) academic years with a minimum of thirty-two (32) weeks of relevant medical instruction each academic year.
 - (c) The school shall be recognized by the World Health Organization but such recognition is not binding on the Board.
 - (d) Acceptable medical educational courses and activities must have been centrally organized, integrated and controlled into a continuous program which was conducted, monitored and approved by the parent institution.
 - (e) If the school does not meet these requirements the applicant cannot obtain a license in Tennessee.
- (4) An applicant shall cause to be submitted a notarized copy of the original permanent E.C.F.M.G. certificate. In lieu of the certificate the following shall be acceptable:
 - (a) Graduates of Mexican medical schools may submit a letter from the E.C.F.M.G. stating all requirements for issuance of a certificate have been met.
 - (b) For all applicants who cannot receive the original or copies of the original certificate due to the phase out of the E.C.F.M.G. must have submitted directly from the testing agency to the Board's Administrative Office proof of successful completion of the U.S.M.L.E. Steps 1 & 2 which are the equivalent of the old E.C.F.M.G. certificates.
 - (c) For applicants who have completed the E.C.F.M.G. requirements by utilization of the fifth pathway, all necessary supporting documentation from the E.C.F.M.G. and the institution wherein the fifth pathway criteria were met.
- (5) An applicant shall submit evidence satisfactory to the Board of successful completion of a three (3) year residency program approved by the American Medical Association or its extant accreditation program for medical education or its successor. Such evidence shall include but not be dispositive of this requirement, a notarized certificate of completion and a letter attesting to satisfactory completion issued by the director of the program which shows that the residency was completed in one (1) discipline. An applicant who holds a specialty board certification or is eligible to hold such certification may be deemed to have completed the three (3) year residency requirement of this rule if the specialty board is recognized by the American Medical Association.
- (6) An applicant shall submit a clear and recognizable, recently taken, bust photograph which shows the full head, face forward from at least the top of the shoulders up.
- (7) An applicant shall submit evidence of good moral character. Such evidence shall include at least two (2) letters attesting to the applicant's character from medical professionals on the signator's letterhead.
- (8) An applicant shall submit proof of United States or Canada citizenship or evidence of being legally entitled to live and work in the United States. Such evidence may include notarized copies of birth certificates, naturalization papers or current visa status.
- (9) An applicant shall submit the application fee and state regulatory fee as provided in rule 0880-2-.02(1) (a) and (g).

(Rule 0880-2-.04, continued)

- (10) All applicants shall submit or cause to be submitted a certificate of successful completion of the examination for licensure as governed by rule 0880-2-.08.
- (11) An international medical school student who has completed all but three (3) or less months of the three (3) year residency program required by paragraph (5) of this rule may be allowed to apply for licensure if all other requirements are met and the director of the residency program submits a letter attesting to the applicant's satisfactory performance in and anticipated successful completion of the residency. However, no license shall be approved or issued until the requirements of paragraph (5) of this rule are met.
- (12) An applicant shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
 - (b) The denial of licensure application by any other state or the discipline of licensure in any state.
 - (c) Loss or restriction of hospital privileges.
 - (d) Any other civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving medical malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under any country's or state's statutory, common, or case law.
 - (e) Failure of any medical licensure examination.
- (13) All documents required to be submitted shall be translated into English and such translation certified along with the original document as to authenticity by the issuing source.
- (14) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).
- (15) Inactive Volunteer Licensure - Applicants who intend to exclusively practice medicine without compensation on patients who receive medical services from organizations granted a determination of exemption pursuant to Section 501 (c)(3) of the Internal Revenue Code may obtain an inactive volunteer license to do so as follows:
 - (a) Applicants who currently hold a valid Tennessee license to practice medicine issued by the Board pursuant to this rule which is in good standing must
 - 1. Retire their active licenses pursuant to the provisions of rule 0880-2-.10 (2); and
 - 2. Have submitted to the Board Administrative Office directly from the qualified organization proof of the determination of exemption issued pursuant to Section 501 (c)(3) of the Internal Revenue Code; and
 - 3. Certify that they are practicing medicine exclusively on the patients of the qualified entity and that such practice is without compensation.
 - (b) Applicants who do not currently hold a valid Tennessee license to practice medicine must comply with all provisions of paragraphs (1) through (14) of this rule.

(Rule 0880-2-.04, continued)

- (c) Inactive volunteer licenses are subject to all rules governing renewal, retirement, reinstatement and reactivation as provided by rules 0880-2-.09 and 10. These licenses are also subject to disciplinary action for the same causes and pursuant to the same procedures as active licenses.
- (d) Inactive volunteer licenses are distinguished from the inactive licenses referred to in rule 0880-2-.10 only by the fact that licenses issued pursuant to this rule allow the practice of medicine in Tennessee with the restrictions placed on it by this rule.

(16) Application review and licensure decisions shall be governed by rule 0880-2-.07.

Authority: T.C.A. §§4-5-202, 63-6-101 (a), 63-6-201, 63-6-207 (a) (2), (b), and (c), 63-6-208, 63-6-209, and 63-230. **Administrative History:** Original rule filed October 13, 1983; effective November 14, 1983. Subsequently repealed and replaced twice, the last replacement was effective April 12, 1991. Amendment filed February 23, 1995; effective May 9, 1995. Amendment filed March 29, 1996; effective June 12, 1996. Amendment filed July 10, 1997; effective September 23, 1997. Amendment filed February 3, 1998; effective April 19, 1998.

0880-2-.05 LICENSURE OF OUT-OF STATE AND INTERNATIONAL APPLICANTS. To practice medicine in Tennessee a person must possess a lawfully issued license from the Board. The Board in its discretion may issue licensure based upon licensure in another state or distinguished faculty status according to the following criteria, process and qualifications:

- (1) An applicant shall obtain an application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and fees required by the form and this rule to the Board Administrative Office in such a manner that all documents are dated not more than one (1) year prior to the date received in the Board Administrative Office.
- (2) An applicant shall submit a clear and recognizable, recently taken, bust photograph which shows the full head, face forward from at least the top of the shoulders up.
- (3) An applicant shall submit evidence of good moral character. Such evidence shall include at least two (2) letters attesting to the applicant's character from medical professionals on the signator's letterhead.
- (4) An applicant shall submit proof of United States or Canada citizenship or evidence of being legally entitled to live and work in the United States. Such evidence may include notarized copies of birth certificates, naturalization papers or current visa status.
- (5) An applicant shall submit with the application the licensure fee as provided in rule 0880-2-.02 (a) and the state regulatory fee as provided in rule 0880-2-.02(1) (g).
- (6) If an applicant has ever held a license to practice medicine in any other state or Canada, the applicant shall submit or cause to be submitted the equivalent of a Tennessee Certificate of Endorsement from each such licensing board which indicates the applicant either holds a current active medical license and whether it is in good standing, or has held a medical license which is currently inactive and whether it was in good standing at the time it became inactive;
- (7) All applicants shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
 - (b) The denial of licensure application by any other state or the discipline of licensure in any state.
 - (c) Loss or restriction of hospital privileges.

(Rule 0880-2-.05, continued)

- (d) Any other civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving medical malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under any country's or state's statutory, common, or case law.
 - (e) Failure of any medical licensure examination.
- (8) Applicants attempting to qualify for licensure based on licensure in another state pursuant to T.C.A. §63-6-211(a) are subject to the following:
- (a) An applicant who has successfully completed FLEX or the National Board of Medical Examiners examination in another state but has not become licensed in another state or Canada will not be considered for licensure under this rule but may qualify by complying with all requirements of rule 0880-2-.03 or rule 0880-2-.04.
 - (b) An applicant shall cause to be submitted, evidence of successful completion of a medical educational program as follows:
 - 1. For United States or Canada medical school graduates, the documentation required by rule 0880-2-.03(2) and 0880-2-.03(3).
 - 2. For international medical school graduates, the documentation required by rules 0880-2-.04(2), (3), (4) and (5) all of which must be translated into English.
 - (c) It is the applicant's responsibility to request official verification of successful completion of one of the following examinations be sent to the Board Administration Office directly from the examination agency.
 - 1. FLEX - Completed in another state with a passing score as determined pursuant to rule 0880-2-.08; or
 - 2. The written and/or practical state medical board examination successfully completed in another state prior to December 1972 (date Tennessee began FLEX); or
 - 3. The National Board of Medical Examiners examination with a certificate of endorsement indicating a passing score; or
 - 4. The Canadian Medical Board; or
 - 5. The United States Medical Licensing Examination with a certification of endorsement indicating a passing score.
 - (d) An applicant shall cause to be submitted the equivalent of a Tennessee certificate of endorsement from the licensing board of at least one (1) state or Canada which indicates the applicant holds a current and active medical license which is in good standing.
- (9) Applicants attempting to qualify for licensure as a distinguished faculty member pursuant to T.C.A. §63-6-211(b) are subject to the following:
- (a) An applicant shall cause to be submitted evidence of successful completion of a medical education program pursuant to either rule 0880-2-.03(2) or rule 0880-2-.04(2).
 - (b) An applicant shall cause to be submitted the following documentation:

(Rule 0880-2-.05, continued)

1. A certification from an accredited medical college in Tennessee that the applicant has a full-time appointment at the professorial rank; and
2. Letters of support attesting to the applicants distinguished status from all of the following:
 - (i) The Dean of the medical college appointing the applicant.
 - (ii) All department chairmen at the appointing medical college who are directly involved with the applicant's faculty assignments.
 - (iii) At least five (5) of the applicant's academic colleagues from outside of Tennessee in addition to the letters required by paragraph (3) of this rule. The academic colleagues shall include the following:
 - (I) Other nationally or internationally recognized experts in the applicant's specialty area.
 - (II) Former or current medical school deans;
- (c) An applicant must cause to be submitted a certification of current and active membership in good standing in at least two (2) medical specialty societies which have restricted and selective membership based on academic and/or practice related criteria;
- (d) An applicant must cause the following documentation to be submitted:
 1. A certification from at least two (2) medical educational institutions either abroad or in the United States that the applicant has been or was invited to be a lecturer or visiting professor along with the applicable dates, lecture topics and/or educational assignments.
 2. The dates, location and sponsoring specialty organizations for at least two (2) national or international medical meetings at which the applicant delivered scholarly medical papers along with copies of at least two (2) such delivered papers. The meetings must have been conducted by or for the applicant's specialty membership;
- (e) The appointing medical college shall immediately notify the Board at any time that an applicant who obtains distinguished faculty licensure ceases to maintain a full-time professorial appointment; and
- (f) Any license issued to a distinguished faculty member shall automatically expire at any time the licensee fails to maintain a full-time professorial appointment and authorized medical practice only in conjunction with the medical college at which the appointment is held.
- (10) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).
- (11) Inactive Volunteer Licensure - Applicants who intend to exclusively practice medicine without compensation on patients who receive medical services from organizations granted a determination of exemption pursuant to Section 501 (c)(3) of the Internal Revenue Code may obtain an inactive volunteer license to do so as follows:

(Rule 0880-2-.05, continued)

- (a) Applicants who currently hold a valid Tennessee license to practice medicine issued by the Board pursuant to this rule which is in good standing must;
 - 1. Retire their active licenses pursuant to the provisions of rule 0880-2-.10 (2); and
 - 2. Have submitted to the Board Administrative Office directly from the qualified organization proof of the determination of exemption issued pursuant to Section 501 (c)(3) of the Internal Revenue Code; and
 - 3. Certify that they are practicing medicine exclusively on the patients of the qualified entity and that such practice is without compensation.
- (b) Applicants who do not currently hold a valid Tennessee license to practice medicine but hold a valid license in good standing from another state must comply with all provisions of paragraphs (1) through (8) of this rule. Applicants who are applying pursuant to the Distinguished Faculty provisions must comply with paragraph (9) of this rule.
- (c) Inactive volunteer licenses are subject to all rules governing renewal, retirement, reinstatement and reactivation as provided by rules 0880-2-.09 and .10. These licenses are also subject to disciplinary action for the same causes and pursuant to the same procedures as active licenses.
- (d) Inactive volunteer licenses are distinguished from the inactive licenses referred to in rule 0880-2-.10 only by the fact that licenses issued pursuant to this rule allow the practice of medicine in Tennessee with the restrictions placed on it by this rule.

(12) Application review and licensure decisions shall be governed by rule 0880-2-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-6-209, 63-6-211, and 63-6-230. **Administrative History:** Original rule filed October 13, 1983; effective November 14, 1983. Repeal and new rule filed May 10, 1987; effective July 24, 1987. Repeal and new rule filed February 26, 1991; effective April 12, 1991. Amendment filed January 10, 1992; effective February 24, 1992. Amendment filed April 14, 1994; effective June 28, 1994. Amendment filed March 29, 1996; effective June 12, 1996. Amendment filed February 3, 1998; effective April 19, 1998.

0880-2-.06 TRAINING LICENSES AND LICENSURE EXEMPTIONS. Those persons who pursuant to T.C.A. §63-6-207 (e) (1) may be eligible to practice medicine in Tennessee with a training license issued by the Board may secure such license pursuant to paragraph (1) of this rule. Those persons who pursuant to T.C.A. §§ 63-6-201 or 63-6-207 (e) (2) may be eligible to practice medicine in Tennessee with a Board issued exemption from licensure may secure such exemptions pursuant to paragraphs (2), (3) or (4) of this rule. Persons who have been issued a license to practice medicine pursuant to either rule 0880-2-.03, 0880-2-.04, or 0880-2-.05 and whose license has not been revoked or suspended need not obtain an exemption from licensure or a training license pursuant to this rule to be able to participate in a training program.

(1) Medical Interns, Residents and Clinical Fellows

- (a) It shall be the responsibility of the program director or the dean responsible for the training program to first compile all of the following on behalf of each applicant for a special training license and then when all necessary documents and fees are compiled, send them directly to the Board's Administrative Office:
 - 1. A Board approved application form for each applicant.
 - 2. The documentation required by rule 0880-2-.03 paragraphs (2), (4), (5), (6), and (9) or rule 0880-2-.04 (2), (4), (6), (7), (8) and (12) for each applicant.

(Rule 0880-2-.06, continued)

3. The special training license fee and the state regulatory fee for each applicant.
 4. The names of the physicians licensed in Tennessee who will have supervisory responsibility for the applicant(s)
- (b) Special Training licenses are subject to renewal by the training program or the individual licensee pursuant to rule 0880-2-.09 if the special training license is needed beyond a one year period.
 - (c) Upon termination of any special training licensee's participation in the training program for any reason, the special license shall expire and the director of the program shall immediately notify the Board in writing of the termination and the reasons therefor delivered to the Board's Administrative Office. Such notification terminates the individual's authority to practice medicine in Tennessee unless and until a full license from the Board has been obtained.
 - (d) Upon approval of applications by the Board, a special training license shall be issued to each qualified applicant.
 - (e) Application review, approval and/or denial shall be governed by rule 0880-2-.07.
- (2) Visiting Medical Faculty:
 - (a) The Dean of the medical school employing visiting medical faculty member(s) shall submit an application for each member to the Board Administrative Office which contains the following information:
 1. The county in which the visiting faculty member is licensed.
 2. The medical school from which the visiting faculty member graduated.
 3. The reasons why the visiting faculty member should be considered a recognized medical authority by the Board.
 - (b) The application for exemption from licensure is effective, if approved, for a period of no longer than one (1) year from the date of approval by the Board and does not authorize practice outside the employing institution.
 - (c) Every application for each visiting faculty member shall be accompanied by the Licensure Exemption Fee required by Rule 0880-2-.02(1)(e).
 - (d) Every application previously approved by the Board must be re-filled annually and accompanied by the Licensure Exemption Fee required by Rule 0880-2-.02(1)(e).
 - (e) No applicant for licensure exemption as a visiting faculty member shall be approved after the expiration of the second (2nd) year of approval for exemption, except those qualifying pursuant to paragraph (3) of this rule.
 - (f) The Dean of the medical school shall immediately notify the Board in writing of the termination of any faculty member's employment and the reasons therefor delivered to the Board Administrative Office. Such notification terminates the visiting faculty member's authority to practice medicine in Tennessee unless such faculty member has obtained a license from the Board.

(Rule 0880-2-.06, continued)

- (g) The Board Administrative Office shall issue written notification of all Board dispositions on licensure exemption applications.
- (3) Visiting Faculty Members - Private Practice:
- (a) Any visiting faculty member who intends to enter private practice beyond the scope of his employment at the sponsoring institution shall, in addition to the application required by Rule 0880-2-.06(2)(a), have the Dean of the Medical School or the Director of the three (3) years residency program in which the faculty member has enrolled submit the following information in writing to the Board Administrative Office:
 - 1. That the visiting faculty member is enrolled and participating satisfactorily in a three (3) year residency program.
 - 2. The construction of and the visiting faculty member's role and duties in the residence program.
 - (b) To continue to engage in private practice and participate as a visiting faculty member under a previously granted licensure exemption, the Dean of the Medical School or the Director of the three (3) year residency program must submit a written application every year which shall include all information required by Rules 0880-2-.06(2)(a) and 0880-2-.06(3)(a) and be accompanied by the Licensure Exemption Fee required by Rules 0880-2-.02(1)(e).
 - (c) No applicant for licensure exemption shall be approved for a visiting faculty member with private practice privileges after the expiration of the third (3rd) year of approved licensure exemption. Such faculty members desiring to continue private practice must become licensed by meeting all applicable requirements of T.C.A. §63-6-207 and Rule 0880-2-.03 or 0880-2-.04.
 - (d) The Dean of the Medical School and the Director of the three (3) year residency program shall immediately notify the Board in writing of the termination of any faculty members employment and/or enrollment and the reasons therefor delivered to the Board Administrative Office. Such notification terminates the visiting faculty member's authority to practice medicine in Tennessee unless such faculty member has obtained a license from the Board pursuant to T.C.A. § 63-6-207 or Rule 0880-2-.03 or 0880-2-.04.
- (4) Medical Interns, Residents and Clinical Fellows
- (a) Prior to the commencement of practice by any individual in a training program, except individuals covered pursuant to T.C.A. §63-6-207(e) (2) (C), it shall be the responsibility of the program director or the dean responsible for the training program which meets the requirements of T.C.A. §63-6-207(e) (2) to make an application to the Board's Administrative Office which contains all of the following:
 - 1. Evidence of how the training program meets the requirements of T.C.A. §63-6-207 (e) (2). Accreditation by the Accreditation Counsel of Graduate Medical Education or evidence of affiliation with a hospital so accredited is acceptable for purposes of this rule.
 - 2. The names of the physicians licensed in Tennessee who will have supervisory and control responsibility for the program participants.
 - 3. For those requiring exemption, a list of each participant's name, social security number and date of birth.
 - 4. The licensure exemption fee as established in rule 0880-2-.02 (k) for each participant.

(Rule 0880-2-.06, continued)

- (b) The application for exemption from licensure is effective, if approved, for a period of no longer than one (1) year from the date of approval. Exemption applications previously approved need not be re-filled for the individuals continuing in the program beyond one (1) year expiration date. However, the program is subject to payment of the fee provided in rule 0880-2-.02 (k) as the annual deadline expires for each such individual.
- (c) Upon termination of any listed individual's participation in the training program for any reason, the director of the program shall immediately notify the Board of the termination and the reasons therefor in writing delivered to the Board's Administrative Office. Such notification terminates the individual's authority to practice medicine in Tennessee unless and until a license or a new exemption from the Board has been obtained.
- (d) The Board Administrative Office shall issue written notification of all Board dispositions on licensure exemption applications. Exemption issuance decisions pursuant to this Rule may be made administratively or upon review by any Board member or the Board Designee.
- (5) The Board Administrative Office shall issue written notification of all Board dispositions on licensure exemption applications.
- (6) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

Authority: T.C.A. §§4-5-202, 63-6-101(a), 63-6-201(a), 63-6-201(b), 63-6-207 through 63-6-209, 63-6-211, and 63-6-214(b). **Administrative History:** Original rule filed October 13, 1983; effective November 14, 1983. Repeal and new rule filed May 10, 1987; effective July 24, 1987. Repeal and new rule filed February 26, 1991; effective April 12, 1991. Amendment filed July 12, 1995; effective November 28, 1995. Amendment filed February 3, 1998; effective April 19, 1998.

0880-2-.07 APPLICATION REVIEW, APPROVAL, DENIAL, INTERVIEWS AND CONDITIONED, RESTRICTED AND LOCUM TENENS LICENSURE. Review and decisions on applications for licensure or exemption from licensure shall be governed by this rule.

- (1) The Board's administrative staff shall determine when an application file is complete.
- (2) If an application is incomplete when received by the Board Administrative Office, the applicant shall be notified of the information required. Except as provided in subparagraph (b), the applicant shall cause the requested information to be received by the Board Administrative Office on or before the ninetieth (90th) day after the initial letter notifying the applicant of the required information is sent.
 - (a) Except as provided in subparagraph (b), if requested information is not timely received, the application file shall be closed and the applicant notified that the Board will not consider licensure or exemption until a new application is received pursuant to the rules governing that process, including another payment of all fees applicable to the applicant's circumstances.
 - (b) The ninety (90) day return requirement shall not apply to applications which require action by the Immigration and Naturalization Service. Action on those applications pursuant to subparagraph (a) shall not take place until the expiration of six (6) months from the date the applications are received.
- (3) If a completed application is denied, conditioned or restricted by the Board the following shall occur:

(Rule 0880-2-.07, continued)

- (a) A notification of the denial shall be sent by the Board Administrative Office by certified mail, return receipt requested which shall contain all the specific statutory or rule authorities for the denial.
- (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §4-5-101, et seq.) to contest the denial and the procedure necessary to accomplish that action.
 - 1. An applicant has a right to a contested case hearing only if the adverse decision on an application was based upon subjective or discretionary criteria and only if the request is in writing and received on or before the thirtieth (30th) day after receipt of the notice by the applicant.
 - 2. An applicant may be granted a contested case hearing if licensure denial is based upon objective, clearly defined criteria only if after review and attempted resolution by the Board's administrative staff the licensure application cannot be approved and the reasons for continued denial present genuine issues of fact and/or law which are appropriate for appeal.
- (4) Any applicant who has successfully complied with all requirements of the rules governing the licensure or exemption process for the type of licensure or exemption applied for shall be issued a license or an exemption from licensure to practice medicine in Tennessee with the following exceptions:
 - (a) Applicants who by virtue of any criteria for licensure in the areas of mental, physical, moral or educational capabilities, as contained in the application and review process which indicates derogatory information or a potential risk to the public health, safety and welfare may be required to present themselves to the Board, a duly constituted panel of the Board, a Board member, a screening panel when the individual is under investigation or the Board Designee for an interview before final licensure may be granted. If sufficient cause exists an applicant may be required pursuant to T.C.A. §63-6-214(c) to submit to a mental and/or physical examination.
 - (b) An applicant whose examination (except reciprocity applicants) is certified as having been successfully completed on or before the fifth (5th) year preceding the date of application shall be required to successfully complete the FLEX "Special Purpose Examination" as administered by the Board.
 - (c) The interviews which may be required by paragraph (4)(a) of this Rule are considered part of the licensure process.
 - (d) The issuance or renewal of licensure to applicants who otherwise may be entitled to full licensure or renewal, may be withheld, denied, conditioned or restricted in any manner the Board deems necessary to protect the public in any of the following circumstances:
 - 1. When an applicant has had licensure disciplinary action taken or is under investigation by another state or territory of the United States for any acts or omissions which would constitute grounds for discipline of a license issued in this state. A certified copy of the initial or final order or other equivalent document memorializing the disciplinary action or investigation from the disciplining state or territory shall constitute prima facie evidence of violation of this section and be sufficient grounds upon which to deny, restrict or condition licensure or renewal and/or discipline a license issued in this state.

(Rule 0880-2-.07, continued)

2. When any applicant's application indicates a problem in the areas of mental, physical, moral or educational criteria for licensure or renewal which the Board determines may create a potential threat to the public health, safety or welfare.
 3. When any applicant has violated any provision of T.C.A. §63-6-214 (b) or rules promulgated pursuant thereto.
 4. When any applicant fails to fully and timely comply with all licensure application and renewal requirements.
- (5) Any physician licensed by any state or country sponsored by a hospital located in Tennessee and/or at least one physician licensed by the Board may, in the Board's discretion, without further qualifications receive a restricted "single purpose" license under the following circumstances:
- (a) The physician has credentials which indicates that he or she is licensed in good standing in another state or country; and
 - (b) The physician submits satisfactory evidence that he or she is either to engage in advanced study in a particular field of medicine in Tennessee or teach or demonstrate a new medical technique to medical professionals in Tennessee; and
 - (c) The physician's credentials are verified by the appropriate national specialty organization in this country or by the American Medical Association or a similar organization acceptable to the Board; and
 - (d) The hospital and/or sponsoring physician must supply all necessary documentation of licensure, credentialing and verification of the same along with a completed Board approved application form; and
 - (e) The hospital and/or sponsoring physician must pay the full cost to the Board of researching, processing and issuing the restricted "single purpose" license which is the application and state regulatory fee provided in rule 0880-2-.02; and
 - (f) The license will be issued authorizing medical practice in the sponsoring hospital or the sponsoring physician's training program only and shall be designated as a "single purpose" license. It will not allow practice outside that hospital or the designated training program; and
 - (g) The restricted "single purpose" license will be issued for a specified period of time not to exceed one (1) year and be subject to whatever other practice restrictions deemed appropriate by the Board. The training received in any program pursuant to this license shall not be used to qualify for full, unrestricted licensure in Tennessee; and
 - (h) The sponsoring physician has full responsibility for the activities of any physician granted a restricted "single purpose" license.
 - (i) All such restricted "single purpose" licenses are subject to discipline for the same causes and pursuant to the same procedures as active unrestricted licenses.
- (6) An applicant who is; licensed in good standing in another state; maintains an unencumbered certification in a recognized specialty area; or is eligible for such certification and indicates an intended residence outside the State of Tennessee but proposes to practice intermittently within the physical boundaries State of Tennessee, shall in the discretion of the Board be issued a Locum Tenens license.

(Rule 0880-2-.07, continued)

- (a) To obtain a Locum Tenens license, an applicant shall compile the following and when completed, submit them to the Board Administrative Office:
 - 1. A Board approved application form; and
 - 2. All documentation required by rule 0880-2-.05 paragraphs (2), (4), (5), (6) and (7).
 - (b) The practice of any person issued a locum tenens license shall be restricted to the specialty area of medicine in which that person is certified or in which the person is eligible for certification.
 - (c) Any physician holding a Locum Tenens license shall notify the Board of the location and duration of each Tennessee practice as soon as reasonably possible under the circumstances before that practice occurs.
 - (d) All Locum Tenens licenses must be renewed, inactivated or retired according to the same procedure as active unrestricted licenses.
 - (e) All Locum Tenens licenses are subject to discipline for the same causes and pursuant to the same procedures as active unrestricted licenses.
 - (f) Any person holding a Locum Tenens license who practices in this state for a period of time in any one year that the Board in its discretion feels is inordinate for the purposes of this licensure status may have his or her Locum Tenens license revoked or be required to apply for a full active license.
- (7) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).
- (8) Inactive Volunteer Licensure - Applicants who intend to exclusively practice medicine without compensation on patients who receive medical services from organizations granted a determination of exemption pursuant to Section 501 (c)(3) of the Internal Revenue Code may obtain an inactive volunteer license to do so as follows:
- (a) Applicants who currently hold a valid Tennessee license to practice medicine originally issued by the Board pursuant to paragraphs (5) or (6) of this rule which is in good standing must:
 - 1. Retire their active licenses pursuant to the provisions of rule 0880-2-.10 (2); and
 - 2. Have submitted to the Board Administrative Office directly from the qualified organization proof of the determination of exemption issued pursuant to Section 501 (c)(3) of the Internal Revenue Code; and
 - 3. Certify that they are practicing medicine exclusively on the patients of the qualified entity and that such practice is without compensation.
 - (b) Applicants who do not currently hold a valid Tennessee license to practice medicine must comply with all provisions of either paragraphs (5) or (6) of this rule.
 - (c) Inactive volunteer licenses issued to those who previously held only a Tennessee locum tenens license are subject to all rules governing renewal, retirement, reinstatement and reactivation as provided by rules 0880-2-.09 and .10. These licenses are also subject to disciplinary action for the same causes and pursuant to the same procedures as active licenses.

(Rule 0880-2-.07, continued)

- (d) Inactive volunteer licenses are distinguished from the inactive licenses referred to in rule 0880-2-.10 only by the fact that licenses issued pursuant to this rule allow the practice of medicine in Tennessee with the restrictions placed on it by this rule.

Authority: T.C.A. §§4-5-102 (3), 4-5-202, 4-5-204, 63-6-101, 63-6-101(a), 63-6-201 (a), 63-6-207, 63-6-208, 63-6-209, 63-6-211, 63-6-14, 63-6-214 (a), (c), (d) and (j), 63-6-216, and 63-6-230. **Administrative History:** Original rule filed October 13, 1983; effective November 14, 1983. Subsequently repealed and replaced twice, the last replacement was effective April 12, 1991. Amendment filed November 27, 1991; effective February 26, 1992. Amendment filed January 21, 1993; effective March 7, 1993. Amendment filed April 14, 1994; effective June 28, 1994. Amendment filed February 23, 1995; effective May 9, 1995. Amendment filed March 29, 1996; effective June 12, 1996. Amendment filed September 22, 1997; effective December 6, 1997. Amendment filed February 3, 1998; effective April 19, 1998. Amendment filed November 30, 1998; effective February 13, 1999. Amendment filed April 16, 1999; effective June 30, 1999. Amendment filed January 4, 2002; effective March 20, 2002. Amendment filed September 5, 2002; effective November 19, 2002. Amendment filed May 28, 2003; effective August 11, 2003.

0880-2-.08 EXAMINATION. All persons intending to apply for licensure as a physician in Tennessee must successfully complete a written examination pursuant to this rule. Such written examination must be completed prior to application for licensure. Certification of successful completion must be submitted by the examining agency directly to the Board Administrative Office as part of the application process contained in rule 0880-2-.03, 0880-2-.04 and 0880-2-.05.

- (1) The Board adopts FLEX, USMLE and the National Board of Medical Examiners (NBME) examination as its written licensure examinations. Successful completion of one of those examinations is a prerequisite to licensure according to the following:
 - (a) After December 31, 1999, with the exception of applicants applying pursuant to Rule 0880-2-.05, the only examination acceptable for licensure is the USMLE Steps 1,2 and 3.
 - (b) The Board will accept any of the following examinations or combinations of examinations if completed prior to December 31, 1999:
 - 1. The NBME Parts I, II and III; or
 - 2. FLEX Components I and II; or
 - 3. Predecessor FLEX Days I, II and III; or
 - 4. NBME Part I or USMLE Step 1
plus
NBME Part II or USMLE Step 2
plus
NBME Part III or USMLE Step 3; or
 - 5. FLEX Component I plus USMLE Step 3; or
 - 6. NBME Part I or USMLE Step 1
plus
NBME Part II or USMLE Step 2
plus
FLEX Component II
 - 7. Combinations of the Predecessor FLEX Days I, II and III are not allowed with any other examination.

(Rule 0880-2-.08, continued)

- (2) Passing Scores - The Board accepts the following scores as constituting successful completion of the licensure examinations:
 - (a) The Board adopts the NBME's and the USMLE's determination of the passing scores for each Part or Step of their examinations.
 - (b) The passing scores adopted by the Board for the FLEX examinations are as follows:
 - 1. FLEX I and II
Component I = 75
Component II = 75
 - 2. Predecessor FLEX Days I, II and III - A FLEX weighted average (FWA) of 75 or greater.
- (3) Oral examination may be required pursuant to Rule 0880-2-.07(6).
- (4) Deadlines - An applicant must have achieved passing scores on the licensure examinations within the following time frames:
 - (a) FLEX and Predecessor FLEX and NBME - Seven (7) years from the date on which either the Day I or Component I or Part I of the examinations was taken.
 - (b) USMLE - Seven (7) years from the date on which the first (1st) Step was taken.
 - (c) If a passing score is not achieved on all Days, Parts, Components or Steps of the examinations within the allotted time frame, the entire examination must be retaken. The deadlines apply regardless of the combination of examinations utilized to apply for licensure.
 - (d) The seven (7) year limitation for the USMLE contained in subparagraph (4) (b) of this rule will not apply to applicants who
 - 1. Are or have been working towards both an M.D. and Ph.D. degree in an institution or program accredited by the Association of American Medical Colleges' Liaison Committee on Medical Education and regional university accrediting body; and
 - 2. Was or is a student in good standing, who was or is enrolled in the institution or program; and
 - 3. Ph.D. studies are in a field of biological sciences tested on Step 1 of the USMLE. (These fields include but are not limited to anatomy, biochemistry, physiology, microbiology, pharmacology, pathology, genetics, neuroscience, and molecular biology. Fields explicitly not included are business, economics, ethics, history, and other fields not directly related to biological science); and
 - 4. Presents a verifiable and rational explanation for the fact that he or she was unable to meet the seven (7) year limit.
- (5) All applicants for the USMLE shall submit all application inquiries, applications, fees and all necessary admission documentation, including evidence satisfactory to the USMLE administering agency of successful completion of a one (1) year post graduate medical educational training program for applicants for Step 3 of that examination, directly to the USMLE administering agency. The Board does not distribute or process applications for the USMLE.

(Rule 0880-2-.08, continued)

- (6) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, and 63-6-207. **Administrative History:** Original rule filed February 26, 1991; effective April 12, 1991. Amendment filed January 10, 1992; effective February 24, 1992. Amendment filed April 14, 1994; effective June 28, 1994. Amendment filed March 29, 1996; effective June 12, 1996. Amendment filed February 3, 1998; effective April 19, 1998. Amendment filed September 4, 1998; effective November 11, 1998. Amendment filed August 25, 2000; effective November 8, 2000.

0880-2-.09 LICENSURE RENEWAL AND REINSTATEMENT.

- (1) All licensees must renew their licenses to be able to legally continue in practice. License renewal is governed by the following:
 - (a) The due date for license renewal is its expiration date which is the last day of the month in which a license holder's birthday falls pursuant to the Division of Health Related Boards "biennial birthdate renewal system" contained in rule 1200-10-1-.10.
 - (b) Methods of Renewal - Licensees may accomplish renewal by one of the following methods:
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:
www.tennesseeanytime.org
 - 2. Paper Renewals - Licensees who have not renewed their authorization online via the Internet will have a renewal application form mailed to them at the last address provided by them to the Board prior to the expiration date of their current license. Failure to receive such notification does not relieve the individual of the responsibility of timely meeting all requirements for renewal. To be eligible for renewal a licensee must submit to the Division of Health Related Boards on or before the license's expiration date the following:
 - (i) A completed and signed renewal application form.
 - (ii) The renewal and state regulatory fees as provided in Rule 0880-2-.02.
 - (c) Any renewal application received after the expiration date but before the last day of the month following the expiration date must be accompanied by the Late Renewal Fee provided in Rule 0880-2-.02.
 - (d) Any individual who fails to comply with the license renewal rules and/or notifications sent to them concerning failure to timely renew shall have their license processed pursuant to rule 1200-10-1-.10.
 - (e) Anyone submitting a signed renewal form, electronically or otherwise, which is found to be fraudulent or untrue may be subject to disciplinary action.
 - (f) Any licensee who receives notice of failure to timely renew pursuant to T.C.A. § 63-6-210 and rule 1200-10-1-.10, and who, on or before the last day of the month following the month in which the license expires, executes and files in the Board's administrative office an affidavit of

(Rule 0880-2-.09, continued)

retirement pursuant to Rule 0880-2-.10 may have their license retired effective on their licensure expiration date.

- (2) Licenses processed pursuant to T.C.A. § 63-6-210 and rule 1200-10-1-.10 for failure to renew may be reinstated upon meeting the following conditions:
 - (a) Obtain, complete and submit a renewal/reinstatement/reactivation application; and
 - (b) At the discretion of the Board, either appear before it or submit a notarized statement setting forth the good cause for failure to renew; and
 - (c) Submit, along with the application, payment of all past due renewal fees; and the late renewal fee provided in rule 0880-2-.02; and
 - (d) Submit, along with the application, documentation of successful completion of the continuing medical education requirements provided in rule 0880-2-.19 for all the calendar years (January 1 - December 31) that the license was expired that precede the calendar year during which the reinstatement is requested.
 - (e) If derogatory information or communication is received during the renewal process, if requested by the Board or its duly authorized representative, appear before the Board, a duly constituted panel of the Board, a Board member, a screening panel when the individual is under investigation or the Board Designee for an interview and/or be prepared to meet or accept other conditions or restrictions as the Board may deem necessary to protect the public.
 - (f) Any licensee who fails to renew licensure prior to the expiration of the second (2nd) year after which renewal is due may be required to meet or accept other conditions or restrictions as the Board may deem necessary to protect the public.
- (3) Renewal issuance and reinstatement decisions pursuant to this Rule may be made administratively subject to review by the Board, any Board member or the Board Designee.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-6-210, and 63-6-233. **Administrative History:** Original rule filed January 29, 1990; effective March 15, 1990. Repeal and new rule filed February 26, 1991; effective April 12, 1991. Amendment filed February 23, 1995; effective May 9, 1995. Amendment filed May 2, 1995; effective July 16, 1995. Amendment filed September 22, 1997; effective December 6, 1997. Amendment filed September 5, 2002; effective November 19, 2002.

0880-2-.10 LICENSURE RETIREMENT/INACTIVATION AND REACTIVATION.

- (1) Inactivation of License
 - (a) Licensees not actively engaged in the practice of medicine in Tennessee who wish to maintain their license on inactive status, and who are actively engaged in the practice of medicine in another state, may avoid automatic revocation of licensure by doing the following:
 1. Obtain from, complete, and submit to the Board Administrative Office an affidavit form attesting to such inactivity.
 2. Pay the licensure inactivation fee as provided in Rule 0880-2-.02(1)(j).
 3. Submit any documentation which may be required by the form to the Board Administrative Office.

(Rule 0880-2-.10, continued)

4. The applicant shall submit or cause to be submitted the equivalent of a Tennessee Certificate of Endorsement from licensing board in each state in which the applicant is actively practicing which indicates the applicant holds an active, current medical license and whether it is in good standing.
 5. Comply with the licensure renewal rules provided in Rule 0880-2-.09.
- (b) Upon the successful application for inactivation of a license, with the completion and receipt of all proper documentation to the Board's satisfaction, the Board shall grant such applicant a license designated on its face in bold print as "inactive". No holder of an inactive license may engage in the active practice of medicine in Tennessee. The Inactivation of a license is distinguished from an inactive volunteer license in that the latter allows the practice of medicine in Tennessee but only as provided by T.C.A. §63-6-230.
- (2) Licensure Retirement
- (a) Licensees who wish to retain their licenses but not actively practice medicine may avoid automatic revocation of licensure and/or compliance with the licensure renewal process by doing the following:
 1. Obtain from, complete and submit to the Board Administrative Office an affidavit of retirement form.
 2. Submit any documentation which may be required by the form to the Board Administrative Office.
 - (b) Upon successful application for retirement of licensure with completion and receipt of all proper documentation to the Board's satisfaction, the Board shall register the license as retired. Any person who has a retired license may not practice medicine in Tennessee.
- (3) Reactivation - Any licensee whose license has been retired or placed on inactive status may re-enter active practice by doing the following:
- (a) Fully complete and submit the Board's Renewal/Reinstatement/Reactivation Application along with payment of the licensure renewal fee as provided in Rule 0880-2-.02 to the Board's Administrative Office. If retirement was pursuant to Rule 0880-2-.09 (1) (f) and reactivation was requested prior to the expiration of one (1) year from the date of retirement, the Board may require payment of the late penalty and past due renewal fees as provided in Rule 0880-2-.02; and
 - (b) Submit, along with the Board's Renewal/ Reinstatement/ Reactivation Application, documentation of successful completion of the continuing medical education requirements provided in rule 0880-2-.19 obtained within two (2) years preceding the reactivation request.
 - (c) If requested, after review by the Board or a designated Board member, appear before the either Board, or a duly constituted panel of the Board, or another Board member, or the Board Designee for an interview regarding continued competence in the event of licensure retirement or inactivity in excess of two (2) years or the receipt of derogatory information or communication during the reactivation process and/or be prepared to meet or accept other conditions or restrictions as the Board may deem necessary to protect the public. An applicant who is currently under investigation may be required to appear before a screening panel of the Board.

(Rule 0880-2-.10, continued)

- (d) In the case of a physician holding an inactive license, the licensee shall provide evidence of the active practice of medicine in another state during the full period the licensee held an inactive Tennessee license. Additionally, the licensee may be requested to provide such other details surrounding his or her inactive status as the Board may require.
 - (e) If licensure retirement was in excess of five (5) years, or the inactive licensee was not continuously and actively engaged in the practice of medicine in another state during the period he or she held an inactive Tennessee license, the licensee may be required to successfully complete the FLEX "Special Purpose Examination" as administered by the Board and/or meet such other requirements the Board feels necessary to establish current levels of competency.
- (4) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-6-101(a), 63-6-210, and 63-6-230. **Administrative History:** Original rule filed September 28, 1990; effective November 12, 1990. Repeal and new rule filed February 26, 1991; effective April 12, 1991. Amendment filed May 2, 1995; effective July 16, 1995. Amendment filed July 10, 1997; effective September 23, 1997. Amendment filed September 22, 1997; effective December 6, 1997. Amendment filed February 3, 1998; effective April 19, 1998. Amendment filed September 5, 2002; effective November 19, 2002.

0880-2-.11 OFFICERS, RECORDS, MEETING REQUEST, CERTIFICATES OF FITNESS, REPLACEMENT LICENSES, CONSULTANTS, ADVISORY RULINGS, DECLARATORY ORDERS AND SCREENING PANELS.

- (1) Officers - The Board shall elect from its members the following officers:
- (a) President - who shall preside at all Board meetings and who shall serve until the expiration of his or her term(s) on the Board. At the conclusion of the President's term(s), new elections for all officers shall be held.
 - (b) Vice President - who shall preside at Board meetings in the absence of the President and who shall serve until the expiration of his or her term(s) on the Board or until the conclusion of the then sitting President's term(s) at which time a new election shall be held.
 - (c) Secretary - who along with the Board Administrator shall be responsible for correspondence from the Board and who shall serve until the expiration of his or her term(s) on the Board or until the conclusion of the then sitting President's term(s) at which time a new election shall be held.
 - (d) Panel Chairperson - A Board member appointed by the President of the Board to preside over the Board business assigned to any panel of the Board established pursuant to T.C.A. § 63-6-103 (b).
- (2) Records and Requests -
- (a) Minutes of the board meetings and all records, documents, applications, and correspondence will be maintained in the Board's Administrative Offices.
 - (b) All requests, applications, notices, complaints, other communications and correspondence shall be directed to the Board's administrative office.

(Rule 0880-2-.11, continued)

- (c) Meeting Agenda Deadline - With the exception of documents relating to disciplinary actions, declaratory orders or hearing requests, any requests or inquiries requiring a Board decision or official Board action must be received in the Board's administrative office fourteen (14) days prior to a scheduled Board meeting. Requests or inquiries timely received will be retained in the administrative office and presented to the Board at the Board meeting. Requests or inquiries not timely received shall be set over to the next Board meeting.
- (3) Requests for Certificate of Fitness or Duplicate or Replacement Licenses -
 - (a) Requests for certificates of fitness for licensees desiring to practice in another state must be made in writing to the Board Administrative Office.
 - (b) Requests for duplicate or replacement licenses must be made in writing to the Board Administrative Office and be accompanied by the fee provided in rule 0880-2-.02.
- (4) Consultants - The Board members or a physician designated by the Board are individually vested with authority as consultants to the Board to do the following acts:
 - (a) Review and make recommendations on licensure, certification, exemption, renewal, reinstatement and reactivation applications subject to the rules governing those respective applications.
 - (b) Decide the following:
 - 1. What, if any, investigation should be instituted upon complaints received by the Division.
 - 2. Whether a licensee who is the subject of a complaint received and/or an investigation conducted by the Division is an appropriate candidate pursuant to Board established guidelines for diversion to a professional peer review organization and/or impaired professional association.
 - 3. What, if any, disciplinary actions should be instituted upon investigations conducted by the Division.
 - 4. What, if any, terms of settlements should be offered in formal disciplinary matters based upon investigations conducted by the Division. A proposed settlement will not become final unless it is subsequently ratified by the Board or a duly constituted panel of the Board.
 - 5. Whether and under what terms a complaint, case or disciplinary action might be settled. A proposed settlement will not become final unless it is subsequently ratified by the Board or a duly constituted panel of the Board.
- (5) The chair(s) of any acting panel(s) of the Board, are authorized to make determinations regarding stays pursuant to rule 1360-4-1-.18 and reconsiderations filed in contested case matters heard before the panel on which they serve. If the contested case is heard before the full Board, the President is authorized to make those determinations.
- (6) Advisory Rulings - Any person who is affected by any matter within the jurisdiction of the Board and who holds a license issued pursuant to Chapter 6 of Title 63 of the Tennessee Code Annotated, may submit a written request for an advisory ruling subject to the limitations imposed by T.C.A. § 63-6-101(a)(4). The procedures for obtaining and issuance of advisory rulings are as follows:

- (a) The licensee shall submit the request to the Board Administrative Office on the form contained in paragraph (6)(e) providing all the necessary information; and
- (b) The request, upon receipt, shall be referred to the Board's administrative staff for research, review and submission of a proposed ruling to the Board for its consideration at the next meeting after the draft ruling has been approved by the Board's Medical Director and advisory attorney; and
- (c) The Board shall review the proposed ruling and either make whatever revisions or substitutions it deems necessary for issuance or refer it back to the administrative staff for further research and drafting recommended by the Board; and
- (d) Upon adoption by the Board the ruling shall be transmitted to the requesting licensee. The ruling shall have only such affect as is set forth in T.C.A. § 63-6-101 (a)(4).
- (e) Any request for an advisory ruling shall be made on the following form, a copy of which may be obtained from the Board's Administrative Office:

Date: _____
 Licensee's Name: _____
 Licensee's Address: _____
 _____ Zip Code _____
 License Number: _____

1. The specific question or issue for which the ruling is requested: _____

2. The facts that gave rise to the specific question or issue:

3. The specific statutes and/or rules which are applicable to the question or issue:

(7) Declaratory Orders - The Board adopts, as if fully set out herein, rule 1200-10-1-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the

(Rule 0880-2-.11, continued)

jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Board's administrative office.

- (8) Screening Panels - Any screening panel(s) established pursuant to T.C.A. § 63-6-214 (i):
- (a) Shall have concurrent authority with the Board members and any individual physician designated by the Board pursuant to paragraph (4), to do the acts enumerated in paragraph (4) (b) subject to the conditions contained therein.
 - 1. A Screening panel(s) comprised of two (2) or more persons shall elect a chairperson prior to convening to conduct business.
 - 2. A screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.
 - (b) After completion of an investigation by the Division, may upon request of either the state, or the licensee who is the subject of an investigation but only with the agreement of the state, or upon request of both the licensee and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.
 - 1. Neither the Rules of Civil Procedure, the Rules of Alternative Dispute Resolution, the Rules of Evidence or Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panel(s).
 - (i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.
 - (ii) Prior to convening the panel and in the absence of an agreement of the parties, the screening panel chairperson shall determine the manner and order of presentation of evidence.
 - 2. Informal hearings may be conducted without the participation of the licensee who is the subject of the investigation.
 - 3. A licensee who is the subject of an investigation being considered by a screening panel cannot be compelled to participate in any informal hearing.
 - 4. It is not required that prior or subsequent notice of any informal hearing be given to any licensee who is the subject of an investigation being considered by a screening panel.
 - 5. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:
 - (i) Approved by a majority of the members of the screening panel which issued them; and
 - (ii) Agreed to by both the Department of Health, by and through its attorney(s), and the licensee; and
 - (iii) Subsequently presented to and ratified by the Board or a duly constituted panel of the Board.

(Rule 0880-2-.11, continued)

Authority: T.C.A. §§4-5-105, 4-5-202, 4-5-204, 4-5-223, 4-5-224, 4-5-225, 63-1-118 (b), 63-1-106 (c), 63-6-101, 63-6-101 (a), 63-6-103, 63-6-201, 63-6-207, 63-6-209, 63-6-210, 63-6-211, 63-6-212, 63-6-213, and 63-6-214.
Administrative History: Original Rule filed February 26, 1991; effective April 12, 1991. Amendment filed August 26, 1998; effective November 9, 1998. Amendment filed April 16, 1999; effective June 30, 1999. Withdrawal to Amendment of rule 0880-2(8)(c) filed and effective November 12, 1999. Amendment filed August 30, 1999; effective November 13, 1999. Amendment filed April 10, 2000; effective June 24, 2000. Amendment filed September 5, 2002; effective November 19, 2002.

0880-2-.12 LICENSURE DISCIPLINE AND CIVIL PENALTIES.

- (1) Upon a finding by the Board that a licensee has violated any provision of the Tennessee Medical Practice Act (T.C.A. §§63-6-101 et seq.) or the rules promulgated pursuant thereto, the Board may impose any of the following actions separately or in any combination which is deemed appropriate to the offense:
 - (a) Private Censure - This is a written action issued to the licensee for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (b) Public censure or reprimand - This is a written action issued to a licensee for one time and less severe violations. It is a formal disciplinary action.
 - (c) Probation - This is a formal disciplinary action which places a licensee on close scrutiny for a period of time.
 1. This action may be combined with any other formal disciplinary action and include conditions which must be met before probation can be lifted and/or which restrict or condition the licensee's activities during the probationary period.
 2. Once ordered, probation may not be lifted unless and until the licensee petitions and appears before the Board after the period of initial probation has run and all conditions placed on the probation have been met and the Board is satisfied that a further probationary period is not warranted.
 - (d) Licensure Suspension - This is a formal disciplinary action which suspends a licensee's right to practice medicine for a fixed period of time. It contemplates the reentry of the licensee into practice under the license previously issued.
 1. Once ordered, a suspension may not be lifted unless and until the licensee petitions and appears before the Board after the period of initial suspension has run and:
 - (i) All conditions placed on the suspension have been met; and
 - (ii) The Board is satisfied that the licensee is competent to return to practice and that no further period of suspension is warranted.
 2. It is the Board's intent that the licensee not practice medicine at all during the period of suspension. If a licensee practices medicine in another state during the period of any ordered suspension, the length of time of practice in another state shall not be counted toward fulfilling the suspension ordered by the Board.
 3. It is the Board's intent that during the period of any suspension, a licensee may not practice any health related profession or in any health related field unless permission is sought and granted by the Board.

(Rule 0880-2-.12, continued)

- (e) Revocation with Leave To Apply - This is a formal disciplinary action which removes a licensee from the practice of medicine in Tennessee and terminates the license previously issued. It relegates the licensee to the status possessed prior to initial application for licensure.
 - 1. A revocation of this nature anticipates that if conditions contained in the revocation order are met that person may apply for a new license to practice medicine. This does not guarantee that a new license will be issued unless or until the Board is satisfied that the person is competent to re-enter practice and is not a threat to the public health, safety or welfare.
 - 2. Petitions for reinstatement of licensure will not be accepted or entertained.
 - 3. Unless a shorter or longer period of time is included in the revocation order, application for a new license will not be accepted or entertained prior to the expiration of at least one (1) year from the effective date of the revocation. Under no circumstances will a new license be issued until the Board is satisfied that the applicant is competent to re-enter the practice of medicine and has met all the then existing licensure requirements. Former disciplinary actions against a licensee can and will be considered in any decision on such licensure applications.
- (f) Permanent Licensure Revocation - This is the most severe form of disciplinary action which permanently removes a licensee from the practice of medicine in Tennessee and terminates the license previously issued. It is the Board's intent that any licensee's whose license is permanently revoked may never practice medicine in Tennessee again. Petitions for reinstatement or new applications for licensure will not be accepted or entertained.
- (g) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee during any period of probation, suspension or revocation with leave to apply or as a prerequisite to the lifting of probation or suspension.
- (h) Civil Penalty - A monetary disciplinary action assessed by the Board pursuant to paragraph (2) of this rule.
- (i) Summary Suspension - This is a formal preliminary disciplinary action which immediately suspends a licensee's right to practice medicine until a final disposition of the matter is had after a promptly instituted, full hearing before the Board. This type of suspension is ordered ex parte, pursuant to the notice procedures contained in T.C.A. §4-5-320 and then only upon a finding by the Board that the public health, safety or welfare Imperatively Requires Emergency Action.
- (j) Assessment of Costs - The imposition of a requirement that any person against whom sanctions have been imposed as a result of a disciplinary action pay the actual and reasonable costs of the prosecution of the case. When the Board, in any final order, requires the "payment of costs", that requirement includes payment of the following:
 - 1. All costs attributed to and assessed against the Board by the Division's Bureau of Investigations in connection with the prosecution of the matter including all investigator time, travel and lodging incurred during the prosecution.
 - 2. All costs assessed against the Board by the Division for the use of the Division facilities and personnel for prosecution of the matter.
 - 3. All costs assessed against the Board for the appearance fees, transcripts, time, travel and lodging of administrative law judges and court reporters and witnesses required in the prosecution of the matter.

(Rule 0880-2-.12, continued)

- (k) Order Modifications - The Board retains jurisdiction, and for good cause shown will entertain petitions, to modify the disciplinary portion of orders issued as a consequence of contested cases decided by it or any of its duly constituted panels, but will not under any circumstances consider modification of any findings of fact, conclusions of law, or policy reasons contained in the original orders. This provision shall not apply to a petition for reconsideration pursuant to T.C.A. 4-5-317 timely filed with the Board pursuant to a contested case.

(2) Civil Penalties

- (a) Purpose - The purpose of this is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. §63-1-134.

- (b) Schedule of Civil Penalties

1. A Type A civil penalty may be imposed whenever the Board finds the person who is required to be licensed or certified, permitted or authorized by the Board guilty of a willful and knowing violation of the Practice Act, or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be an imminent, substantial threat to the health, safety and welfare of an individual client or the public. For purposes of this section, willfully and knowingly practicing medicine without a license, certification or other authorization from the Board is one of the violations of the Medical Practice Act for which a Type A civil penalty is assessable.
2. A Type B civil penalty may be imposed whenever the Board finds the person who is required to be licensed or certified, permitted or authorized by the Board is guilty of a violation of the Medical Practice Act, or regulations promulgated pursuant thereto, in such a manner as to impact directly on the care of patients or the public.
3. A Type C civil penalty may be imposed whenever the Board finds the person who is required to be licensed by the Board or certified, permitted or authorized by the Board is guilty of a violation of the Medical Practice Act, or regulations promulgated pursuant thereto, which are neither directly detrimental to the patients or public, nor directly impact their care, but have only indirect relationship to patient care or the public.

- (c) Amount of Civil Penalties

1. Type A Civil Penalties shall be assessed in the amount of not less than \$500 or more than \$1,000.
2. Type B Civil Penalties may be assessed in the amount of not less than \$100 and not more than \$500.
3. Type C Civil Penalties may be assessed in the amount of not less than \$50 and not more than \$100.

- (d) Procedures for Assessing Civil Penalties

1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.

(Rule 0880-2-.12, continued)

2. Civil Penalties may also be initiated and assessed by the Board during consideration of any Notice of Charges. In addition, the Board may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division.
3. In assessing the civil penalties pursuant to these rules the Board may consider the following factors:
 - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefits gained by the violator as a result of non-compliance; and,
 - (v) The interest of the public.
4. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of Title 4, Chapter 5, Tennessee Code Annotated.

Authority: T.C.A. §§5-101, 4-5-202, 4-5-204, 63-1-134, 63-6-101, 63-6-214, 63-6-216, and 63-6-124.
Administrative History: Original rule filed February 26, 1991; effective April 12, 1991. Amendment filed July 7, 1995; effective September 20, 1995. Amendment filed August 26, 1998; effective November 9, 1998. Amendment filed April 10, 2000; effective June 24, 2000. Amendment filed September 5, 2002; effective November 19, 2002.

0880-2-.13 ADVERTISING.

- (1) Policy Statement. The lack of sophistication on the part of many of the public concerning medical services, the importance of the interests affected by the choice of a physician and the foreseeable consequences of unrestricted advertising by physicians which is recognized to pose special possibilities for deception, require that special care be taken by physicians to avoid misleading the public. The physician must be mindful that the benefits of advertising depend upon its reliability and accuracy. Since advertising by physicians is calculated and not spontaneous, reasonable regulation designed to foster compliance with appropriate standards serves the public interest without impeding the flow of useful, meaningful, and relevant information to the public.
- (2) Definitions
 - (a) Advertisement. Informational communication to the public in any manner designed to attract public attention to the practice of a physician who is licensed to practice in Tennessee.
 - (b) Licensee - Any person holding a license to practice medicine in the State of Tennessee. Where applicable this shall include partnerships and/or corporations.
 - (c) Material Fact - Any fact which an ordinary reasonable and prudent person would need to know or rely upon in order to make an informed decision concerning the choice of practitioners to serve his or her particular needs.
 - (d) Bait and Switch Advertising - An alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised service or merchandise, in order to sell something else, usually for a higher fee or on a basis more advantageous to the advertiser.

(Rule 0880-2-.13, continued)

- (e) Discounted Fee - Shall mean a fee offered or charged by a person or product or service that is less than the fee the person or organization usually offers or charges for the product or service. Products or services expressly offered free of charge shall not be deemed to be offered at a “discounted fee”.
- (3) Advertising Fees and Services
 - (a) Fixed Fees - Fixed fees may be advertised for any service.
 - 1. It is presumed unless otherwise stated in the advertisement that a fixed fee for a service shall include the cost of all professional recognized components within generally accepted standards that are required to complete the service.
 - (b) Range of Fees. A range of fees may be advertised for services and the advertisement must disclose the factors used in determining the actual fee, necessary to prevent deception of the public.
 - (c) Discount Fees. Discount fees may be advertised if:
 - 1. The discount fee is in fact lower than the licensee’s customary or usual fee charged for the service; and
 - 2. The licensee provides the same quality and components of service and material at the discounted fee that are normally provided at the regular, non-discounted fee for that service.
 - (d) Related Services and Additional Fees. Related services which may be required in conjunction with the advertised services for which additional fees will be charged must be identified as such in any advertisement.
 - (e) Time Period of Advertised Fees. Advertised fees shall be honored for those seeking the advertised services during the entire time period stated in the advertisement whether or not the services are actually rendered or completed within that time.
 - 1. If no time period is stated in the advertisement of fees, the advertised fee shall be honored for thirty (30) days from the last date of publication or until the next scheduled publication whichever is later whether or not the services are actually rendered or completed within that time.
- (4) Advertising Content. The following acts or omissions in the context of advertisement by any licensee shall constitute unethical and unprofessional conduct, and subject the licensee to disciplinary action pursuant to T.C.A. §63-6-214(b)(9).
 - (a) Claims that the services performed, personnel employed, materials or office equipment used are professionally superior to that which is ordinarily performed, employed, or used, or that convey the message that one licensee is better than another when superiority of services, personnel, materials or equipment cannot be substantiated.
 - (b) The misleading use of an unearned or non-health degree in any advertisement.
 - (c) Promotion of professional services which the licensee knows or should know is beyond the licensee’s ability to perform.

(Rule 0880-2-.13, continued)

- (d) Techniques of communication which intimidate, exert undue pressure or undue influence over a prospective client.
- (e) Any appeals to an individual's anxiety in an excessive or unfair manner.
- (f) The use of any personal testimonial attesting to a quality of competency of a service or treatment offered by a licensee that is not reasonably verifiable.
- (g) Utilization of any statistical data or other information based on past performances for prediction of future services, which creates an unjustified expectation about results that the licensee can achieve.
- (h) The communication of personal identifiable facts, data, or information about a patient without first obtaining patient consent.
- (i) Any misrepresentation of a material fact.
- (j) The knowing suppression, omission or concealment of any material fact or law without which the advertisement would be deceptive or misleading.
- (k) Statements concerning the benefits or other attributes of medical procedures or products that involve significant risks without including:
 - 1. A realistic assessment of the safety and efficiency of those procedures or products; and
 - 2. The availability of alternatives; and
 - 3. Where necessary to avoid deception, descriptions or assessment of the benefits or other attributes of those alternatives.
- (l) Any communication which creates an unjustified expectation concerning the potential results of any treatment.
- (m) Failure to comply with the rules governing advertisement of fees and services, or advertising records.
- (n) The use of "bait and switch" advertisements. Where the circumstances indicate "bait and switch" advertising, the Board may require the licensee to furnish data or other evidence pertaining to those sales at the advertised fee as well as other sales.
- (o) Misrepresentation of a licensee's credentials, training, experience, or ability.
- (p) Failure to include the corporation, partnership or individual licensee's name, address, and telephone number in any advertisement. Any corporation, partnership or association which advertises by use of a trade name or otherwise fails to list all licensees practicing at a particular location shall:
 - 1. Upon request provide a list of all licensees practicing at that location; and
 - 2. Maintain and conspicuously display at the licensee's office, a directory listing all licensees practicing at that location.
- (q) Failure to disclose the fact of giving compensation or anything of value to representative of the press, radio, television or other communicative medium in anticipation of or in return for any

(Rule 0880-2-.13, continued)

advertisement (for example, newspaper article) unless the nature, format or medium of such advertisement make the fact of compensation apparent.

- (r) After thirty (30) days of the licensee's departure, the use of the name of any licensee formerly practicing at or associated with any advertised location or on office signs or buildings. This rule shall not apply in the case of a retired or deceased former associate who practiced in association with one or more of the present occupants if the status of the former associate is disclosed in any advertisement or sign.
 - (s) Stating or implying that a certain licensee provides all services when any such services are performed by another licensee.
 - (t) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services.
- (5) Advertising Records and Responsibility
- (a) Each licensee who is a principal partner, or officer of a firm or entity identified in any advertisement, is jointly and severally responsible for the form and content of any advertisement. This provision shall also include any licensed professional employees acting as an agent of such firm or entity.
 - (b) Any and all advertisement are presumed to have been approved by the licensee named therein.
 - (c) A recording of every advertisement communicated by electronic media, and a copy of every advertisement communicated by print media, and a copy of any other form of advertisement shall be retained by the licensee for a period of two (2) years from the last date of broadcast or publication and be made available for review upon request by the Board or its designee.
 - (d) At the time any type of advertisement is placed, the licensee must possess and rely upon information which, when produced, would substantiate the truthfulness of any assertion, omission or representation of material fact set forth in the advertisement or public information.
- (6) Severability. It is hereby declared that the sections, clauses, sentences and part of these rules are severable, are not matters of mutual essential inducement, and any of them shall be rescinded if these rules would otherwise be unconstitutional or ineffective. If any one or more sections, clauses, sentences or parts shall for any reason be questioned in court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the in applicability or invalidity of any section, clause, sentence or part in any one or more instance shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-214 (b)(9) and 63-6-215. **Administrative History:** Original rule filed February 26, 1991; effective April 12, 1991. Amendment filed November 27, 1991; effective February 26, 1992.

0880-2-.14 SPECIFICALLY REGULATED AREAS AND ASPECTS OF MEDICAL PRACTICE.

- (1) Policy Statement - The scope of practice of physicians in Tennessee is broadly defined and includes many aspects which if not particularly regulated could lead to serious ramifications for the consuming public. This Rule is to designate specific areas in the practice of medicine for regulation the violation of which may result in disciplinary action pursuant to either T.C.A. §§63-6-214(b)(1) or 63-6-214(b)(4) or 63-6-214(b)(12).

(Rule 0880-2-.14, continued)

- (2) Pharmaceutical Dispensing - Physicians who elect to dispense medication for remuneration must comply with the following:
 - (a) All Federal Regulations (21 CFR 1304 through 1308) for the dispensing of controlled substances.
 - (b) Requirements for dispensing of non-controlled drugs are as follows:
 - 1. Drugs are to be dispensed in an appropriate container labeled with at least, the following:
 - (i) Patient's name.
 - (ii) Date.
 - (iii) Complete directions for usage.
 - (iv) The physician's name and address.
 - (v) A unique number, or the name and strength of the medication.
 - 2. Physicians may dispense only to individuals with whom they have established a physician/patient relationship. It shall be a violation of this rule for a physician to dispense medication at the order of any other physician not registered to practice at the same location.
 - 3. Whenever dispensing takes place, appropriate records shall be maintained. A separate log must be maintained for controlled substances dispensing.
 - (c) It is not the intention of this Rule to interfere with the individual physician's appropriate use of professional samples, nor to interfere in any way with the physician's right to directly administer drugs or medicines to any patient.
 - (d) Dispensing or prescribing controlled substances in amounts or for durations not medically necessary, advisable or justified is considered to be practicing beyond the scope of the professional practice.
- (3) Amphetamines, Amphetamine-Like Substances, and Central Nervous System Stimulants.
 - (a) It shall be a prima facie violation of T.C.A. §§63-6-214 (b)(1) and 63-6-214 (b)(12) to prescribe, order, administer, sell or otherwise distribute any amphetamine drug except:
 - 1. For treatment of the following:
 - (i) attention deficit disorder;
 - (ii) drug-induced brain dysfunction;
 - (iii) narcolepsy;
 - (iv) dementia or organic brain syndrome with severe psychomotor retardation;
 - (v) Chronic depression refractory to other drugs. Such diagnosis must be included on the prescription.

(Rule 0880-2-.14, continued)

2. When the licensee has applied for and received from the Board of Medical Examiners a written approval for the clinical investigation of such drugs under a protocol satisfactory to the Board. Any such approval by the Board of Medical Examiners will be filed with the Board of Pharmacy and disseminated by the Board of Pharmacy to any pharmacy which would fill prescriptions written during the research.
- (b) The list of amphetamine drugs governed by subparagraph (3)(a) of this Rule includes the following controlled substances:
1. Amphetamine, its salts, optical isomers and salts of its optical isomers; (examples are Biphphetamine, Dexadrine, Benzedrine and others).
 2. Methamphetamine, its salts, isomers and salts of isomers; (an example is Desoxyn).
 3. Any salt, any type of isomer and salts of such isomers, or any chemical element or any mixture, compound, material or preparation, containing any quantity of any of the substances listed above or their salts, any type of isomers and salts of such isomers, or chemical elements are also governed by this rule.
- (c) It shall be a prima facie violation of T.C.A. §§63-6-214 (b)(1) and 63-6-214 (b)(12) to prescribe, order, administer, sell or otherwise distribute any amphetamine-like substance listed below, except when the licensee has applied for and received from the Board of Medical Examiners a written approval for the clinical investigation of such drugs under a protocol satisfactory to the Board. Any such approval by the Board of Medical Examiners will be filed with the Board of Pharmacy and disseminated by the Board of Pharmacy to any pharmacy which would fill prescriptions written during the research.
1. The list of amphetamine-like substances governed by this rule are the following controlled substances:
 - (i) Phenmetrazine and its salts; (an example is Preludin)
 - (ii) Benzphetamine; (an example is Didrex)
 - (iii) Chlorphentermine; (an example is Pre Sate)
 - (iv) Phendimetrazine; (examples are Plegine, Bontril, Meltiat, Prelu-2, Adipost, Wehles, and others)
 - (v) Diethylpropion; (examples are Tenuate and Tepanil)
 - (vi) Mazindol; (examples are Mazandor and Sanorex)
 - (vii) Phentermine; (examples Ionamin, Fastin, Adipex and others), except as authorized pursuant to T.C.A. §63-6-214;
 - (viii) Fenfluramine HS; (an example Pondimin), except as authorized pursuant to T.C.A. §63-6-214.
 2. Any salt, any type of isomer and salts of such isomers, or any chemical element or any mixture, compound, material or preparation, containing any quantity of any of the substances listed above or their salts, any type of isomers and salts of such isomers, or

(Rule 0880-2-.14, continued)

chemical elements, except as authorized pursuant to T.C.A. §63-6-214, are also governed by this rule.

- (d) It shall be a prima facie violation of T.C.A. §§63-6-214 (b)(1) and 63-6-214 (b)(12) to prescribe, order, administer, sell or otherwise distribute any central nervous system stimulant listed below except:
 - 1. For treatment of any of the following:
 - (i) attention deficit disorder;
 - (ii) drug-induced brain dysfunction;
 - (iii) narcolepsy;
 - (iv) dementia or organic brain syndrome with severe psychomotor retardation;
 - (v) Chronic depression refractory to other drugs. Such diagnosis must be included on the prescription.
 - 2. When the licensee has applied for and received from the Board of Medical Examiners a written approval for the clinical investigation of such drugs under a protocol satisfactory to the Board. Any such approval by the Board of Medical Examiners will be filed with the Board of Pharmacy and disseminated by the Board of Pharmacy to any pharmacy which would fill prescriptions written during the research.
- (e) The list of central nervous system stimulants governed by subparagraph (3)(d) of this rule are the following controlled substances:
 - 1. methylphenidate; (an example is Ritalin)
 - 2. pemoline (including organometallic complexes and chelates thereof; an example is Cylert)
 - 3. Any salt, any type of isomer and salts of such isomers, or any chemical element or any mixture, compound, material or preparation, containing any quantity of any of the substances listed above or their salts, any type of isomers and salts of such isomers, or chemical elements are also governed by this rule.
- (4) Prescription Legibility- Any physician writing a prescription on a pre-printed prescription blank with multiple physicians' names shall circle his or her name on the prescription. Any physician writing a prescription on a prescription blank which does not have the physician's name pre-printed on it shall use a hand stamp with his or her name on it below the signature on the prescription. If a hand stamp or a pre-printed prescription blank are not available or not practicable, the physician shall legibly print his or her full name below the signature line for identification purposes. This rule in no case replaces the need for a signature on the prescription. The physician's signature is required as the official certifying act of the physician. Physicians may utilize a legible and specifically identifying electronic signature to satisfy the requirements of this rule and as the official certifying act of the physician.
- (5) Universal Precautions For The Prevention Of HIV Transmission - The Board adopts, as if fully set out herein, rules 1200-14-3-.01 through 1200-14-3-.03 inclusive, of the Department of Health and as they may from time to time be amended, as its rule governing the process for implementing universal precautions for the prevention of HIV transmission for health care workers under its jurisdiction.

(Rule 0880-2-.14, continued)

- (6) Authority of Physician to Prescribe for the Treatment of Pain - Purpose - The purpose of this chapter is to recognize that some dangerous drugs and controlled substances are indispensable for the treatment of pain, and are useful for relieving and controlling many other related symptoms that patients may suffer. It is the position of the board that these drugs may be prescribed for the treatment of pain and other related symptoms after a reasonably based medical diagnosis has been made, in adequate doses, and for appropriate lengths of time, which in some cases may be as long as the pain or related symptoms persist. The board recognizes that pain, including intractable pain, and many other related symptoms are subjective complaints and that the appropriateness and the adequacy of drug and dose will vary from individual to individual. The practitioner is expected to exercise sound medical judgment in treating pain and related symptoms with dangerous drugs and controlled substances.
- (a) Definitions. The following words and terms, as used in this rule shall have the following meanings in the context of providing medications for pain and related symptoms.
1. Abuser of narcotic drugs, controlled substances and dangerous drugs - A person who takes a drug or drugs for other than legitimate medical purposes.
 2. Intractable pain - A pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts.
 3. Non-therapeutic in nature or manner - A medical use or purpose that is not legitimate.
 4. Prescribing pharmaceuticals or practicing consistent with the public health and welfare - Prescribing pharmaceuticals and practicing medicine for a legitimate medical purpose in the usual course of professional practice.
- (b) No physician is required to provide treatment to patients with intractable pain with opiate medications but when refusing to do so shall inform the patient that there are physicians whose primary practice is in the treatment of severe, chronic, intractable pain with methods including the use of opiates. If the patient requests a referral to such a physician, and the physician makes such a referral that referral shall be noted in the patient's medical records.
- (c) If a physician provides medical care for persons with intractable pain, with or without the use of opiate medications, to the extent that those patients become the focus of the physician's practice the physician must be prepared to document specialized medical education in pain management sufficient to bring the physician within the current standard of care in that field which shall include education on the causes, different and recommended modalities for treatment, chemical dependency and the psycho/social aspects of severe, chronic intractable pain.
- (d) The treatment of persons with an acute or chronic painful medical condition who also require treatment for chemical dependency by a physician shall be governed by T.C.A. § 63-6-1107 (c) and (d).
- (e) Guidelines - The Tennessee Board of Medical Examiners will use the following guidelines to determine whether a physician's conduct violates T.C.A. §63-6-214 (b) (12) through (14) in regard to the prescribing, administering, ordering, or dispensing of pain medications and other drugs necessary to address their side effects.
1. The treatment of pain, including intractable pain, with dangerous drugs and controlled substances is a legitimate medical purpose when done in the usual course of professional practice.

(Rule 0880-2-.14, continued)

2. A physician or surgeon duly authorized to practice medicine in Tennessee and to prescribe controlled substances and dangerous drugs in this state shall not be subject to disciplinary action by the board for prescribing, ordering, administering, or dispensing dangerous drugs or controlled substances for the treatment and relief of pain, including intractable pain, in the usual course of professional practice for a legitimate medical purpose in compliance with applicable state and federal law.
3. Prescribing, ordering, administering, or dispensing dangerous drugs or controlled substances for pain will be considered to be for a legitimate medical purpose if based upon accepted scientific knowledge of the treatment of pain, including intractable pain, not in contravention of applicable state or federal law, and if prescribed, ordered, administered, or dispensed in compliance with the following guidelines where appropriate and as is necessary to meet the individual needs of the patient:
 - (i) After a documented medical history, which may be provided orally or in writing by the patient, and physical examination by the physician providing the medication including an assessment and consideration of the pain, physical and psychological function, any history and potential for substance abuse, coexisting diseases and conditions, and the presence of a recognized medical indication for the use of a dangerous drug or controlled substance;
 - (ii) Pursuant to a written treatment plan tailored for the individual needs of the patient by which treatment progress and success can be evaluated with stated objectives such as pain relief and/or improved physical and psychosocial function. Such a written treatment plan shall consider pertinent medical history and physical examination as well as the need for further testing, consultations, referrals, or use of other treatment modalities;
 - (iii) The physician should discuss the risks and benefits of the use of controlled substances with the patient or guardian;
 - (iv) Subject to documented periodic review of the care by the physician at reasonable intervals in view of the individual circumstances of the patient in regard to progress toward reaching treatment objectives which takes into consideration the course of medications prescribed, ordered, administered, or dispensed as well as any new information about the etiology of the pain;
 - (v) Complete and accurate records of the care provided as set forth in parts (i)-(iv) of this paragraph should be kept. When controlled substances are prescribed, names, quantities prescribed, dosages, and number of authorized refills of the drugs should be recorded, keeping in mind that pain patients with a history of substance abuse or who live in an environment posing a risk for medication misuse or diversion require special consideration. Management of these patients may require closer monitoring by the physician managing the pain and consultation with appropriate health care professionals.
4. A decision by a physician not to strictly adhere to the provisions of paragraph 3 of this section will, for good cause shown, be grounds for the board to take no disciplinary action in regard to the physician. Each case of prescribing for pain will be evaluated on an individual basis. The physician's conduct will be evaluated to a great extent by the treatment outcome, taking into account whether the drug used is medically and/or pharmacologically recognized to be appropriate for the diagnosis, the patient's individual needs including any improvement in functioning, and recognizing that some types of pain cannot be completely relieved.

(Rule 0880-2-.14, continued)

5. If the provisions as set out in subparagraphs (1)-(4) of this section are met, and if all drug treatment is properly documented, the board will consider such practices as prescribing in a therapeutic manner, and prescribing and practicing medicine in a manner consistent with public health and welfare.
 6. Quantity of pharmaceutical and chronicity of prescribing will be evaluated on the basis of the documented appropriate diagnosis and treatment of the recognized medical indication, documented persistence of the recognized medical indication, and properly documented follow-up evaluation with appropriate continuing care as set out in this rule.
 7. A physician may use any number of treatment modalities for the treatment of pain, including intractable pain, which are consistent with legitimate medical purposes.
 8. These rules shall not be construed so as to apply to the treatment of acute pain with dangerous drugs or controlled substances for purposes of short-term care.
- (7) Prerequisites to Issuing Prescriptions or Dispensing Medications - In Person, Electronically, and Over the Internet
- (a) Except as provided in subparagraph (b), it shall be a prima facie violation of T.C.A. § 63-6-214 (b) (1), (4), and (12) for a physician to prescribe or dispense any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines, unless the physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, has first done and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed, all of the following:
 1. Performed an appropriate history and physical examination; and
 2. Made a diagnosis based upon the examinations and all diagnostic and laboratory tests consistent with good medical care; and
 3. Formulated a therapeutic plan, and discussed it, along with the basis for it and the risks and benefits of various treatments options, a part of which might be the prescription or dispensed drug, with the patient; and
 4. Insured availability of the physician or coverage for the patient for appropriate follow-up care.
 - (b) A physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, may prescribe or dispense drugs for a person not in compliance with subparagraph (a) consistent with sound medical practice, examples of which are as follows:
 1. In admission orders for a newly hospitalized patient; or
 2. For a patient of another physician for whom the prescriber is taking calls or for whom the prescriber has verified the appropriateness of the medication; or
 3. For continuation medications on a short-term basis for a new patient prior to the patient's first appointment; or
 4. For established patients who, based on sound medical practices, the physician feels do not require a new physical examination before issuing new prescriptions; or

(Rule 0880-2-.14, continued)

5. In compliance with paragraph (9) of this rule.
 - (c) It shall be a prima facie violation of T.C.A. § 63-6-214 (b) (1), (4), and (12) for a physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, to prescribe or dispense any drug to any individual for whom the physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, has not complied with the provisions of this rule based solely on answers to a set of questions regardless of whether the prescription is issued directly to the person or electronically over the Internet or telephone lines.
- (8) Code of Ethics - The Board adopts, as if fully set out herein and to the extent that it does not conflict with state law, rules or Board Position Statements, as its code of medical ethics the "Code of Medical Ethics" published by the A.M.A. Council on Ethical and Judicial Affairs as it may, from time to time, be amended.
 - (a) In the case of a conflict the state law, rules or position statements shall govern. Violation of the Board's code of ethics shall be grounds for disciplinary action pursuant to T.C.A. § 63-6-214 (b) (1).
 - (b) A copy of the A.M.A. "Code of Medical Ethics" may be obtained from the Order Department of the A.M.A. at 515 N. State Street, Chicago, IL 60610 or by phone at 1-800-621-8335, or on the Internet at <http://www.ama-assn.org>.
- (9) Treatment of Chlamydia trachomatis
 - (a) Purpose - This rule provides an acceptable deviation from the normal standard of care in the treatment of Chlamydia trachomatis (hereafter Ct) and provides a means for physicians to help reduce Tennessee's rate of Ct infection which currently exceeds the national rate by over ten percent (10%), and which, if left untreated, can cause serious health problems including pelvic inflammatory disease, ectopic pregnancies, infertility, cervical cancer and an increased risk of HIV infection. This rule will allow physicians and those over whom they exercise responsibility and control to provide an effective and safe treatment to the partners of patients infected with Ct who for various reasons may not otherwise receive appropriate treatment.
 - (b) For purpose of this rule "partner(s)" shall mean any person who comes into sexual contact with the infected patient during the sixty (60) days prior to the onset of patient's symptoms or positive diagnostic test results.
 - (c) Prerequisites - Physicians and those who provide medical services under their responsibility and control who have first documented all of the following in the medical records for patients may provide partner treatment pursuant to subparagraph (d) of this rule:
 1. A laboratory-confirmed Ct infection without evidence of co-infection with gonorrhea or other complications suggestive of a relationship to Ct infection; and
 2. Provision of treatment of the patient for Ct; and
 3. An attempt to persuade the infected patient to have all partners evaluated and treated and the patient indicated that partners would not comply; and
 4. Provision of a copy of reproducible, department-provided Ct educational fact sheet or substantially similar Ct-related literature available from other professional sources to the patient with copies for all partners; and

(Rule 0880-2-.14, continued)

5. Counseling the patient on sexual abstinence until seven (7) days after treatment and until seven (7) days after partners have been treated; and
- (d) Partner Treatment - Upon documentation in the patient's medical records of all prerequisites in subparagraph (c) physicians or those who provide medical services under their responsibility and control may either:
 1. Provide to the treated patient non-named signed prescriptions for, or dispense to the patient, the appropriate quantity and strength of azithromycin sufficient to provide curative treatment for the total number of unnamed "partners" as defined in subparagraph (b) and indicated by the patient.
 2. Provide to the treated patient signed, name-specific prescriptions for, or dispense to the patient, the appropriate quantity and strength of azithromycin sufficient to provide curative treatment for the total number of known partners as defined in subparagraph (b) and named by the patient.
- (10) Use of Laser Equipment - Any procedure encompassed within the definition of the practice of medicine contained in T.C.A. § 63-6-204 that is to be performed by use of a laser shall be considered, except as provided in T.C.A. §§ 63-26-102 (5) and 63-9-106, to be the practice of medicine and any person performing such procedure must be under the supervision of a licensed physician.

Authority: T.C.A. §§4-5-202, 4-5-204, 53-11-301, 63-6-101, 63-6-204, 63-6-214, (c), 63-6-1104 through 63-6-1108, 63-6-1110, 63-6-1111, 63-7-123, 63-9-106, 63-19-106, 63-26-102, and 68-11-222. **Administrative History:** Original Rule filed February 26, 1991; effective April 12, 1991. Amendment filed September 17, 1991; effective November 1, 1991. Amendment filed November 27, 1991; effective February 26, 1992. Amendment filed April 20, 1994; effective July 4, 1994. Amendment filed May 18, 1994; effective August 1, 1994. Amendment filed May 19, 1994; effective August 2, 1994. Emergency Rule filed and effective March 27, 1997, expired September 6, 1997. Amendment filed September 24, 1997; effective December 8, 1997. Amendment filed April 16, 1999; effective June 30, 1999. Amendment filed March 9, 2001; effective May 23, 2001. Amendment filed September 5, 2002; effective November 19, 2002. Amendment filed September 26, 2002; effective December 10, 2002. Notice of withdrawal of rule 0880-2-.14(10)(c) to be effective on December 18, 2002 was filed and effective November 6, 2002. Amendment filed October 4, 2002; effective December 18, 2002. Amendment filed April 21, 2003; effective July 5, 2003.

0880-2-.15 MEDICAL RECORDS.

- (1) Purposes - The purposes of these rules are:
 - (a) To recognize that medical records are an integral part of the practice of medicine as defined in T.C.A. § 63-6-204.
 - (b) To give physicians, their professional and non-professional staff, and the public direction about the content, transfer, retention, and destruction of those records.
 - (c) To recognize that a distinction exists between a physician's medical records for a patient receiving services in the physician's office and those records created by the physician for that patient for purposes of services provided in a hospital as defined by T.C.A. § 68-11-302 (4) and that the distinction exists regardless of the fact that the physician may also be an employee of the hospital or of a medical group employed or owned by the hospital.
- (2) Conflicts - As to medical records, these rules should be read in conjunction with the provisions of T.C.A. §§ 63-2-101 and 102, and are not intended to conflict with those statutes in any way. Those statutes, along with these rules, govern the subjects that they cover in the absence of other controlling state or federal statutes or rules to the contrary.

(Rule 0880-2-.15, continued)

- (3) Applicability - These rules regarding medical records shall apply only to those records, the information for which was obtained by physicians or their professionally licensed employees, or those over whom they exercise supervision, for purposes of services provided in any clinical setting other than those provided in a hospital as defined by T.C.A. § 68-11-302 (4), a hospital emergency room or hospital outpatient facility.
- (4) Medical Records -
 - (a) Duty to Create and Maintain Medical Records - As a component of the standard of care and of minimal competency a physician must cause to be created and cause to be maintained a medical record for every patient for whom he or she, and/or any of his or her professionally licensed supervisees, performs services or provides professional consultation.
 - (b) Notice - Anywhere in these rules where notice is required to be given to patients of any physician that notice shall be required to be issued within thirty (30) days of the date of the event that triggers the notice requirement, and may be accomplished by public notice.
 - (c) Distinguished from Hospital Medical Records - The medical records covered by these rules are separate and distinct from those records generated for the patient by the physician during the course of providing medical services for the patient in a hospital as defined by T.C.A. § 68-11-302 (4) regardless of the fact that the physician may also be an employee of the hospital or of a medical group employed or owned by the hospital.
 - 1. The provisions of T.C.A. Title 68, Part 11, Chapter 3 govern medical records generated in a hospital as defined by T.C.A. § 68-11-302 (4).
 - 2. The medical records covered by these rules are those:
 - (i) That are created prior to the time of the patient's admission to or confinement and/or receipt of services in a hospital as defined by T.C.A. § 68-11-302 (4), hospital emergency room and/or hospital outpatient facility, and/or
 - (ii) That are created after the patient's discharge from a hospital as defined by T.C.A. § 68-11-302 (4), hospital emergency room or hospital outpatient facility.
 - (iii) That are created during the practice of medicine as defined by T.C.A. § 63-6-204 outside of a hospital as defined by T.C.A. § 68-11-302 (4), hospital emergency room or hospital outpatient facility.
 - 3. Even though the records covered by these rules may, of necessity, reference provision of services in the hospital setting and the necessary initial work-up and/or follow-up to those services, that does not make them "hospital records" that are regulated by or obtainable pursuant to T.C.A. Title 68, Part 11, Chapter 3.
 - (d) Content - All medical records, or summaries thereof, produced in the course of the practice of medicine for all patients shall include all information and documentation listed in T.C.A. § 63-2-101 (c) (2) and such additional information that is necessary to insure that a subsequent reviewing or treating physician can both ascertain the basis for the diagnosis, treatment plan and outcomes, and provide continuity of care for the patient.
 - (e) Transfer -

(Rule 0880-2-.15, continued)

1. Records of Physicians upon Death or Retirement - When a physician retires or dies while in practice, patients seen by the physician in his/her office during the immediately preceding thirty-six (36) months shall be notified by the physician, or his/her authorized representative and urged to find a new physician and be informed that upon authorization, copies of the records will be sent to the new physician.
2. Records of Physicians upon Departure from a Group - The responsibility for notifying patients of a physician who leaves a group practice whether by death, retirement or departure shall be governed by the physician's employment contract.
 - (i) Whomever is responsible for that notification must notify patients seen by the physician in his/her office during the immediately preceding thirty-six (36) months of his/her departure.
 - (ii) Except where otherwise governed by provisions of the physician's contract, those patients shall also be notified of the physician's new address and offered the opportunity to have copies of their medical records forwarded to the departing physician at his or her new practice. Provided however, a group shall not withhold the medical records of any patient who has authorized their transfer to the departing physician or any other physician.
 - (iii) The choice of physicians in every case should be left to the patient, and the patient should be informed that upon authorization his/her records will be sent to the physician of the patient's choice.
3. Sale of a Medical Practice - A physician or the estate of a deceased physician may sell the elements that comprise his/her practice, one of which is its goodwill, i.e., the opportunity to take over the patients of the seller by purchasing the physician's medical records. Therefore, the transfer of records of patients is subject to the following:
 - (i) The physician (or the estate) must ensure that all medical records are transferred to another physician or entity that is held to the same standards of confidentiality as provided in these rules.
 - (ii) Patients seen by the physician in his/her office during the immediately preceding thirty-six (36) months shall be notified that the physician (or the estate) is transferring the practice to another physician or entity who will retain custody of their records and that at their written request the copies of their records will be sent to another physician or entity of their choice.
4. Abandonment of Records - For purposes of this section of the rules death of a physician shall not be considered as abandonment.
 - (i) It shall be a prima facie violation of T.C.A. § 63-6-214 (b) (1) for a physician to abandon his practice without making provision for the security, or transfer, or otherwise establish a secure method of patient access to their records.
 - (ii) Upon notification that a physician in a practice has abandoned his practice and not made provision for the security, or transfer, or otherwise established a secure method of patient access to their records patients should take all reasonable steps to obtain their medical records by whatever lawful means available and should immediately seek the services of another physician.

(Rule 0880-2-.15, continued)

- (f) Retention of Medical Records - Medical records shall be retained for a period of not less than ten (10) years from the physician's or his supervisees' last professional contact with the patient except for the following:
 - 1. Immunization records shall be retained indefinitely.
 - 2. Medical records for incompetent patients shall be retained indefinitely.
 - 3. Mammography records shall be retained for at least twenty (20) years.
 - 4. X-rays, radiographs and other imaging products shall be retained for at least four (4) years after which if there exist separate interpretive records thereof they may be destroyed.
 - 5. Medical records of minors shall be retained for a period of not less than one (1) year after the minor reaches the age of majority or ten (10) years from the date of the physician's or his supervisees' last professional contact with the patient, whichever is longer.
 - 6. Notwithstanding the foregoing, no medical record involving services which are currently under dispute shall be destroyed until the dispute is resolved.
 - (g) Destruction of Medical Records -
 - 1. No medical record shall be singled out for destruction other than in accordance with established office operating procedures.
 - 2. Records shall be destroyed only in the ordinary course of business according to established office operating procedures that are consistent with these rules.
 - 3. Records may be destroyed by burning, shredding, or other effective methods in keeping with the confidential nature of the records.
 - 4. When records are destroyed, the time, date and circumstances of the destruction shall be recorded and maintained for future reference. The record of destruction need not list the individual patient medical records that were destroyed but shall be sufficient to identify which group of destroyed records contained a particular patient's medical records.
- (5) Violations - Violation of any provision of these rules is grounds for disciplinary action pursuant to T.C.A. §§ 63-6-214 (b) (1), and/or (2).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-2-101, 63-2-102, 63-6-101, 63-6-204, and 63-6-214. **Administrative History:** Original rule filed April 29, 2003; effective July 13, 2003.

0880-2-.16 TELEMEDICINE LICENSURE. No person shall engage in the practice of medicine across state lines in this State, hold himself out as qualified to do the same, or use any title, word, or abbreviation to indicate to or induce others to believe that he is licensed to practice medicine across state lines in this State unless he is actually so licensed in accordance with the provisions of this rule.

- (1) Definitions - As used in this rule, the practice of medicine across state lines (telemedicine) means:
 - (a) The rendering of a written or otherwise documented medical opinion concerning diagnosis or treatment of a patient within this State by a physician located outside this State as a result of transmission of individual patient data by electronic or other means from within this State to such physician or his agent; or

(Rule 0880-2-.16, continued)

- (b) The rendering of treatment to a patient within this State by a physician located outside this State as a result of transmission of individual patient data by electronic or other means from within this State to such physician or his agent.
- (2) Issuance of License - An applicant who has an unrestricted license in good standing in another state and maintains an unencumbered certification in a recognized specialty area; or is eligible for such certification and indicates a residence and a practice outside the State of Tennessee but proposes to practice medicine across state lines on patients within the physical boundaries of the State of Tennessee, shall in the discretion of the Board be issued a telemedicine license.
 - (a) To obtain a license, an applicant shall compile the following and when completed, submit them to the Board Administrative Office:
 - 1. A Board approved application form; and
 - 2. All documentation required by rule 0880-2-.05 paragraphs (2), (4), (5), (6) and (7).
 - (b) The practice of any person issued a telemedicine license shall be restricted to the specialty area of medicine in which that person is certified or in which the person is eligible for certification.
 - (c) All telemedicine licenses must be renewed, inactivated or retired according to the same procedure as active unrestricted licenses governed by rules 0880-2-.09 and 0880-2-.10.
 - (d) All telemedicine licenses are subject to discipline for the same causes and pursuant to the same procedures as active unrestricted licenses.
 - (e) In the event of previous disciplinary or other action against the applicant, the Board may, in its discretion, issue a license to practice medicine across state lines if it finds that the previous disciplinary or other action does not indicate that the physician is a potential threat to the public.
- (3) Effect of License - The issuance by the Board of a special purpose license to practice medicine across state lines subjects the licensee to the jurisdiction of the Board in all matters set forth in the Medical Practice Act and implementing rules and regulations, including all matters related to discipline.
 - (a) The licensee agrees by acceptance of such license to
 - 1. Produce patient medical records and/or materials as requested by the Board and/or to appear before the Board upon receipt of notice commanding appearance issued by the Board. Failure of the licensee to appear and/or to produce records or materials as requested, after appropriate notice, shall constitute grounds to suspend or revoke the licensee's telemedicine license at the Board's discretion.
 - 2. Designate on the licensure application the name, address and telephone number of a physician residing in Tennessee upon whom service of process for any disciplinary action filed against the licensee can be legally effected in the event that personal service upon the licensee has been shown to be unsuccessful. Service of process on that named individual, for acts or omissions that occurred during or as a result of the treatments provided or ordered by the licensee for patients physically located in Tennessee, is legally equivalent to personal service on the licensee.
- (4) Patient Medical Records - Any licensee licensed under the provision of this rule shall comply with all applicable laws, rules, and regulations of this state governing the maintenance of patient medical

(Rule 0880-2-.16, continued)

records, including patient confidentiality requirements, regardless of the state where the medical records of any patient within this State are maintained.

- (5) Any person who violates the provisions of these rules is subject to criminal prosecution for the unlicensed practice of medicine pursuant to T.C.A. §63-6-203, and/or injunctive or other action authorized in this State to prohibit or penalize continued practice without a license. Nothing in this rule shall be interpreted to limit or restrict the Board's authority to discipline any physician licensed to practice in this State who violates the Medical Practice Act while engaging in the practice of medicine within this or any other State.
- (6) Exempted from the provisions of these rules are the following:
 - (a) A physician who practices medicine across state lines in an emergency; or
 - (b) A physician who engages in the practice of medicine across state lines that occurs less than once a month or involves fewer than ten patients on an annual basis, or comprises less than one percent (1%) of the physician's diagnostic or therapeutic practice; or
 - (c) Physicians who engage in the practice of medicine across state lines without compensation or expectation of compensation unless the practice exceeds the limits established by paragraph (6)(b); or
 - (d) The informal practice of medicine in the form of uncompensated consultations regardless of their frequency; or
 - (e) Licensed /registered physicians or surgeons of other states when called in consultation by a Tennessee licensed/registered physician as provided by T.C.A. §63-6-214 (a)(3).
- (7) Not exempted from these rules is the practice of medicine across state lines conducted within the parameters of a contractual relationship regardless of whether or not the practice is within the limits established by paragraph (6)(b) and regardless of whether or not it is for compensation or the promise of compensation.
- (8) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, and 63-6-209. **Administrative History:** Original Rule filed January 26, 1998; effective April 11, 1998. Amendment filed February 3, 1998; effective April 19, 1998.

0880-2-.17 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

- (1) Malpractice Reporting Threshold - The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the "Health Care Consumer Right-To-Know-Act of 1998" shall be seventy-five thousand dollars (\$75,000).
- (2) Criminal Conviction Reporting Requirements - For purposes of the "Health Care Consumer Right-To-Know-Act of 1998" the following criminal convictions must be reported:
 - (a) Conviction of any felony; and

(Rule 0880-2-.17, continued)

- (b) Conviction or adjudication of guilt of any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 - 1. Sex.
 - 2. Alcohol or drugs.
 - 3. Physical injury or threat of injury to any person.
 - 4. Abuse or neglect of any minor, spouse or the elderly.
 - 5. Fraud or theft.
- (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, and 63-51-101, *et seq.* **Administrative History:** New Rule filed October 30, 1998; effective January 13, 1999.

0880-2-.18 SUPERVISION OF PHYSICIAN ASSISTANTS. The following requirements apply to a supervising physician who supervises one or more physician assistants:

- (1) A supervising physician or a substitute supervising physician must possess a current, unencumbered license to practice in the state of Tennessee.
- (2) Supervision does not require the continuous and constant presence of the supervising physician; however, the supervising physician must be available for consultation at all times or shall make arrangements for a substitute physician to be available.
- (3) A supervising physician and/or substitute supervising physician shall have experience and/or expertise in the same area of medicine as the physician assistant.
- (4) Physician assistants who hold temporary licenses pursuant to T.C.A. § 63-19-105(a)(2) (those waiting to take the licensure examination) may not provide services unless a supervising physician is on site while the services are being provided.
- (5) Protocols are required and:
 - (a) shall be jointly developed and approved by the supervising physician and physician assistant;
 - (b) shall outline and cover the applicable standard of care;
 - (c) shall be reviewed and updated biennially;
 - (d) shall be maintained at the practice site;
 - (e) shall account for all protocol drugs by appropriate formulary;
 - (f) shall be specific to the population seen;
 - (g) shall be dated and signed; and
 - (h) shall be made available upon request for inspection by the board or committee.

(Rule 0880-2-.18, continued)

- (6) The supervising physician shall be responsible for ensuring compliance with the applicable standard of care under (5). Additionally, the supervising physician shall develop protocols in collaboration with the physician assistant to include a method for documenting consultation and referral.
- (7) Within ten (10) business days after the physician assistant has examined a patient who falls in one of the following categories, the supervising physician shall make a personal review of the historical, physical, and therapeutic data gathered by the physician assistant on that patient and shall so certify in the patient's chart within thirty (30) days:
 - (a) when medically indicated;
 - (b) when requested by the patient;
 - (c) when prescriptions written by the physician assistant fall outside the protocols;
 - (d) when prescriptions are written by a physician assistant who possesses a temporary license; and
 - (e) when a controlled drug has been prescribed.
- (8) In any event, a supervising physician shall personally review at least twenty percent (20%) of charts monitored or written by the physician assistant every thirty (30) days.
- (9) The supervising physician shall be required to visit any remote site at least once every thirty (30) days.
- (10) If more than one physician supervises a physician assistant in a practice setting (such as in a hospital emergency room), one protocol may be developed for that practice setting.
- (11) If a physician assistant and the same supervising physician work in more than one practice setting, one protocol may be developed which covers all these practice settings.
- (12) The number of physician assistants for whom a physician may serve as the supervising physician shall be determined by the physician at the practice level, consistent with good medical practice.
- (13) The supervising physician may delegate to a physician assistant working under the physician's supervision the authority to issue prescriptions or medication orders for legend drugs and controlled substances listed in Schedules II, III, IV, and V of Tennessee Code Annotated, Title 39, Chapter 17, Part 4 in accordance with written protocols which are mutually developed and agreed upon by the physician assistant and the supervising physician.
- (14) A licensed physician who supervises the services of a physician assistant in a manner that is inconsistent with the Tennessee Medical Practice Act or these rules shall be subject to disciplinary action.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-19-104, 63-19-106, and 63-19-107, and Public Chapter 33, Public Acts of 1999. **Administrative History:** Original rule filed April 10, 2000; effective June 24, 2000. Amendment filed March 9, 2001; effective May 23, 2001.

0880-2-.19 CONTINUING MEDICAL EDUCATION.

- (1) Hours Required, Waiver, and Exemptions
 - (a) All licensees must complete forty (40) hours of continuing medical education courses during the two (2) calendar years (January 1 - December 31) that precede the licensure renewal year.

(Rule 0880-2-.19, continued)

- (b) The Board approves a course for only the number of hours contained in the course. The approved hours of any individual course will not be counted more than once in a calendar year toward the required hourly total regardless of the number of times the course is attended or completed by any individual.
- (c) Waiver - The Board may waive the requirements of these rules in cases where illness, disability, or other undue hardship beyond the control of the licensee prevents a licensee from complying. Requests for waivers must be sent in writing to the Board prior to the expiration of the calendar year in which the continuing medical education is due.
- (d) Exemptions:
 - 1. Anyone whose license is in the retired or inactive status pursuant to rule 0880-2-.10 (1) and/or (2) is exempt from the requirements of these continuing medical education rules.
 - 2. Anyone who obtains licensure in the same calendar year as successful completion of the USMLE Step 3 is exempt from the provisions of these continuing medical education rules but only for the calendar year in which licensure is issued.
- (2) Proof of Compliance - All licensees must retain independent documentation of completion of all continuing medical education hours and compliance with the provisions of these rules.
 - (a) This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing medical education was acquired.
 - (b) This documentation must be produced for inspection and verification, if requested in writing by the Division during its verification process.
 - (c) Documentation verifying the licensee's completion of the continuing medical education hours may consist of any one (1) or more of the following:
 - 1. Original certificates or photocopies of original certificates from course providers verifying the licensee's attendance and/or completion of hours.
 - 2. Original letters or photocopies of original letters from course providers verifying the licensee's attendance and/or completion of hours.
 - 3. Documentation from the American Academy of Family Physicians (hereafter AAFP) indicating acquired continuing medical education hours.
- (3) Acceptable Continuing Education - To be utilized for satisfaction of the continuing education requirements of this rule, the continuing education hours must comply with both of the following:
 - (a) They must be sponsored by an organization accredited as a sponsor of continuing medical education by either the Accrediting Council for Continuing Medical Education (ACCME) or by a state medical association recognized by the ACCME as an intrastate accreditor of sponsors of continuing medical education; and
 - (b) They must be designated or certified by the accrediting sponsor as meeting the criteria for Category 1 continuing medical education credit of the American Medical Association's Physician's Recognition Program; or be designated by the AAFP as meeting the criteria of the AAFP's prescribed credit.

(Rule 0880-2-.19, continued)

(4) Violations and Disciplinary Orders

- (a) Any licensee who fails to obtain the required continuing medical education hours or otherwise comply with the provisions of these rules will be subject to disciplinary action.
- (b) Continuing medical education hours obtained as a result of compliance with the terms of Board Orders in any disciplinary action or obtained pursuant to licensure or renewal restriction/conditions mandated by the Board shall not be credited toward the continuing medical education hours required to be obtained in any calendar year.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, and 63-6-233. **Administrative History:** Original rule filed September 5, 2002; effective November 19, 2002.

0880-2-.20 MEDICAL PROFESSIONAL CORPORATIONS AND MEDICAL PROFESSIONAL LIMITED LIABILITY COMPANIES.

- (1) Medical Professional Corporations (MPC)- Except as provided in this rule Medical Professional Corporations shall be governed by the provisions of Tennessee Code Annotated, Title 48, Chapter 101, Part 6.
 - (a) Filings - A MPC need not file its Charter or its Annual Statement of Qualifications with the Board.
 - (b) Ownership of Stock - With the exception of the health care professional combinations specifically enumerated in Tennessee Code Annotated, Section 48-101-610 only the following may form and own shares of stock in a foreign or domestic MPC doing business in Tennessee:
 - 1. Physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9; and/or
 - 2. A general partnership in which all partners are physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9; and/or
 - 3. A MPC in which all shareholders are physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9 to practice medicine in Tennessee or composed of entities which are directly or indirectly owned by such licensed physicians; and/or
 - 4. A Medical Professional Limited Liability Company (MPLLC) in which all members are physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9 to practice medicine in Tennessee or composed of entities which are directly or indirectly owned by such licensed physicians; and/or
 - 5. A foreign MPC or MPLLC in which all shareholders/members are physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9 to practice medicine in Tennessee or composed of entities which are directly or indirectly owned by such licensed physicians.
 - 6. A foreign or domestic podiatry general partnership, podiatry professional corporation or podiatry professional limited liability company doing business in Tennessee in which all shareholders/members are either podiatrists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 3 and/or physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9 or composed of entities which are directly or indirectly owned by such licensed podiatrists and/or physicians.

(Rule 0880-2-.20, continued)

7. A foreign or domestic optometry general partnership, optometry professional corporation or optometry professional limited liability company doing business in Tennessee in which all shareholders/members are either optometrists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 8 and/or physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9 or composed of entities which are directly or indirectly owned by such licensed optometrists and/or physicians.
- (c) Officers and Directors of Medical Professional Corporations -
1. All, except the following officers, must be persons who are eligible to form or own shares of stock in a medical professional corporation as limited by T.C.A. § 48-101-610 (d) (1) and/or (2) and subparagraph (1) (b) of this rule:
 - (i) Secretary;
 - (ii) Assistant Secretary;
 - (iii) Treasurer; and
 - (iv) Assistant Treasurer.
 2. With respect to members of the Board of Directors, only persons who are eligible to form or own shares of stock in a medical professional corporation as limited by T.C.A. § 48-101-610 (d) (1) and/or (2) and subparagraph (1) (b) of this rule shall be directors of a MPC.
- (d) Practice Limitations
1. Physician incorporators, shareholders, officers, or directors of a MPC, acting individually or on behalf of, or collectively as the MPC, shall exercise only such authority as an "employing entity" may exercise pursuant to Tennessee Code Annotated, Section 63-6-204 (d)(1)(A),(B) and (C) regarding diagnosis, treatment and/or referral decisions made by any physician employed by or contracting with or otherwise providing medical services within the scope of their practice within the MPC.
 2. A physician shall not enter into an employment, compensation, or other contractual arrangement with a MPC that may violate the code of ethics or which gives the MPC more authority over the physician's diagnosis, treatment and/or referral decisions than an "employing entity" may exercise pursuant to Tennessee Code Annotated, Section 63-6-204 (d)(1)(A),(B) and (C) regarding those decisions.
 3. Engaging in, or allowing another physician incorporator, shareholder, officer, or director, while acting on behalf of the MPC, to engage in, medical practice in any area of practice or specialty beyond that which is specifically set forth in the charter may be a violation of the code of ethics and/or either Tennessee Code Annotated, Sections 63-6-214 (b)(1) or 63-9-111 (b)(1).
 4. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a MPC.
 5. Nothing in these rules shall be construed as prohibiting a MPC from electing to incorporate for the purposes of rendering professional services within two (2) or more

(Rule 0880-2-.20, continued)

- professions or for any lawful business authorized by the Tennessee Business Corporations Act so long as those purposes do not interfere with the exercise of independent medical judgment by the physician incorporators, directors, officers, shareholders, employees or contractors of the MPC who are practicing medicine as defined by Tennessee Code Annotated, § 63-6-204.
6. Nothing in these rules shall be construed as prohibiting a physician from owning shares of stock in any type of professional corporation other than a MPC so long as such ownership interests do not interfere with the exercise of independent medical judgment by the physician while practicing medicine as defined by Tennessee Code Annotated, § 63-6-204.
- (2) Medical Professional Limited Liability Companies (MPLLC) - Except as provided in this rule Medical Professional Limited Liability Companies shall be governed by the provisions of Tennessee Code Annotated, Title 48, Chapter 248.
- (a) Filings - Articles filed with the Secretary of State shall be deemed to be filed with the Board and no Annual Statement of Qualifications need be filed with the Board.
- (b) Membership - With the exception of the health care professional combinations specifically enumerated in Tennessee Code Annotated, Section 48-248-401 only the following may be members of a foreign or domestic MPLLC doing business in Tennessee:
1. Physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9; and/or
 2. A general partnership in which all partners are physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9; and/or
 3. A MPC in which all shareholders are physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9 to practice medicine in Tennessee or composed of entities which are directly or indirectly owned by such licensed physicians; and/or
 4. A Medical Professional Limited Liability Company (MPLLC) in which all members are physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9 to practice medicine in Tennessee or composed of entities which are directly or indirectly owned by such licensed physicians; and/or
 5. A foreign MPC or MPLLC in which all shareholders/members are physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9 to practice medicine in Tennessee or composed of entities which are directly or indirectly owned by such licensed physicians.
 6. A foreign or domestic podiatry general partnership, podiatry professional corporation or podiatry professional limited liability company doing business in Tennessee in which all shareholders/members are either podiatrists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 3 and/or physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9 or composed of entities which are directly or indirectly owned by such licensed podiatrists and/or physicians.
 7. A foreign or domestic optometry general partnership, optometry professional corporation or optometry professional limited liability company doing business in Tennessee in which all shareholders/members are either optometrists licensed pursuant to Tennessee

(Rule 0880-2-.20, continued)

Code Annotated Title 63, Chapter 8 and/or physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 6 and/or Chapter 9 or composed of entities which are directly or indirectly owned by such licensed optometrists and/or physicians.

(c) Managers or Governors of a M PLLC

1. All, except the following managers, must be persons who are eligible to form or become members of a medical professional limited liability company as limited by T.C.A. § 48-248-401 (d) (1) and/or (2) and subparagraph (2) (b) of this rule:
 - (i) Secretary
 - (ii) Treasurer
2. Only persons who are eligible to form or become members of a medical professional limited liability company as limited by T.C.A. § 48-248-401 (d) (1) and/or (2) and subparagraph (2) (b) of this rule shall be allowed to serve on the Board of Governors of a M PLLC.

(d) Practice Limitations

1. Physician members, managers, or governors of a M PLLC, acting individually or on behalf of, or collectively as the M PLLC, shall exercise only such authority as an "employing entity" may exercise pursuant to T.C.A. § 63-6-204 (d)(1)(A),(B) and (C) regarding diagnosis, treatment and/or referral decisions made by any physician employed by or contracting with or otherwise providing medical services within the scope of their practice within the M PLLC.
2. A physician shall not enter into an employment, compensation, or other contractual arrangement with a M PLLC that may violate the code of ethics or which gives the M PLLC more authority over the physician's diagnosis, treatment and/or referral decisions than an "employing entity" may exercise pursuant to T.C.A. § 63-6-204 (d)(1)(A),(B) and (C) regarding those decisions.
3. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a M PLLC.
4. Nothing in these rules shall be construed as prohibiting a M PLLC from electing to form for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Business Corporations Act so long as those purposes do not interfere with the exercise of independent medical judgment by the physician members, governors, officers, managers, employees or contractors of the M PLLC who are practicing medicine as defined by Tennessee Code Annotated, § 63-6-204.
5. Nothing in these rules shall be construed as prohibiting a physician from being a member of any type of professional limited liability company other than a M PLLC so long as such membership interests do not interfere with the exercise of independent medical judgment by the physician while practicing medicine as defined by Tennessee Code Annotated, Section, § 63-6-204.

(Rule 0880-2-.20, continued)

6. All MPLLCs formed in Tennessee pursuant to Tennessee Code Annotated, Section 48-248-104 to provide services only in states other than Tennessee shall annually file with the Board a notarized statement that they are not providing services in Tennessee.
- (3) Dissolution - The procedure that the Board shall follow to notify the attorney general that a MPC or a MPLLC has violated or is violating any provision of Title 48, Chapters 101 and/or 248 shall be as follows but shall not terminate or interfere with the secretary of state's authority regarding dissolution pursuant to Tennessee Code Annotated, Sections 48-101-624 or 48-248-409.
 - (a) Service of a written notice of violation by the Board on the registered agent of the MPC and/or MPLLC or the secretary of state if a violation of the provisions of Tennessee Code Annotated, Title 48, Chapters 101 and/or 248 occurs.
 - (b) The notice of violation shall state with reasonable specificity the nature of the alleged violation(s).
 - (c) The notice of violation shall state that the MPC and/or MPLLC must, within sixty (60) days after service of the notice of violation, correct each alleged violation or show to the Board's satisfaction that the alleged violation(s) did not occur.
 - (d) The notice of violation shall state that, if the Board finds that the MPC and/or MPLLC is in violation, the attorney general will be notified and judicial dissolution proceedings may be instituted pursuant to Tennessee Code Annotated, Title 48.
 - (e) The notice of violation shall state that proceedings pursuant to this section shall not be conducted in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5 but that the MPC and/or MPLLC, through its agent(s), shall appear before the Board at the time, date, and place as set by the Board and show cause why the Board should not notify the attorney general and reporter that the organization is in violation of the Act or these rules. The Board shall enter an order that states with reasonable particularity the facts describing each violation and the statutory or rule reference of each violation. These proceedings shall constitute the conduct of administrative rather than disciplinary business.
 - (f) If, after the proceeding the Board finds that a MPC and/or MPLLC did violate any provision of Title 48, Chapters 101 and/or 248 or these rules, and failed to correct said violation or demonstrate to the Board's satisfaction that the violation did not occur, the Board shall certify to the attorney general and reporter that it has met all requirements of either Tennessee Code Annotated, Sections 48-101-624 (1) - (3) and/or 48-248-409 (1)-(3).
- (4) Violation of this rule by any physician individually or collectively while acting as a MPC or as a MPLLC may subject the physician(s) to disciplinary action pursuant to Tennessee Code Annotated, Sections 63-6-214 (b) (1), or 63-9-111 (b) (1).

Authority: T.C.A. §§4-5-202, 4-5-204, 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-6-201, 63-6-204, and 63-6-214. **Administrative History:** Original rule filed June 3, 2003; effective August 17, 2003.